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1972 SUPPLEMENT
VOLUME 2

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VERNON'S
TEXAS STATUTES
1972 SUPPLEMENT

Volume 2

Including General and Permanent Laws
of the

62nd Legislature,
Regular Session, 1971
First Called Session, 1971

TABLES and INDEX

Supplementing
Vernon's Texas Statutes 1948
and
1950-1970 Supplements

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1972 SUPPLEMENT

This Supplement to Vernon's Texas Statutes, in two volumes, includes the laws of a general and permanent nature enacted at the Regular and Called Sessions of the 62nd Legislature. The sessions convened and adjourned as follows:

	Convened	Adjourned
Regular Session, 62nd Leg.	Jan. 12, 1971	May 31, 1971
First Called Session, 62nd Leg. ...	June 1, 1971	June 4, 1971

These volumes supplement the 1948 edition of Vernon's Texas Statutes and the biennial Supplements from 1950 through 1970.

Constitutional amendments, approved by the voters on November 3, 1970 and May 18, 1971, are also included.

To assist the user in readily locating any article or section affected by legislation from 1949 through 1971, a special Table has been prepared and is printed on the colored pages in Volume 1.

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

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

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

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January, 1972

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Cite this Supplement thus:

- Vernon's Texas Civ.St., Art. —.
- Vernon's Texas Bus. & C. Code, § —.
- Vernon's Texas Bus. Corp. Act, Art. —.
- Vernon's Texas C. C. P., Art. —.
- Vernon's Texas Educ. Code, § —.
- Vernon's Texas Elec. Code, Art. —.
- Vernon's Texas Family Code, § —.
- Vernon's Texas Ins. Code, Art. —.
- Vernon's Texas P. C., Art. —.
- Vernon's Texas Prob. Code, § —.
- Vernon's Texas Tax.Gen., Art. —.
- Vernon's Texas Water Code, § —.

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BUSINESS AND COMMERCE CODE

TITLE 1—UNIFORM COMMERCIAL CODE

CHAPTER 7. WAREHOUSE RECEIPTS, BILLS OF LADING AND OTHER DOCUMENTS OF TITLE

§ 7.209. Lien of Warehouseman

* * * * *

(c) A warehouseman's lien for a security interest under Subsection (b) is effective against any person who so entrusted the bailor with possession of the goods that a pledge of them by him to a good faith purchaser for value would have been valid but is not effective against a person as to whom the document confers no right in the goods covered by it under Section 7.503. However, the warehouseman's specific lien for charges and expenses under Subsection (a) (1) is effective against any security interest. If the warehouseman learns of a perfected security interest owned by a person as to whom the document confers no right in the goods covered by it under Section 7.503 against the goods and fails thereafter to give such secured party (Section 9.105) written notice of the accrued and unpaid charges and expenses at the time when they have accrued for between two and six months, then the warehouseman's specific lien under Subsection (a) (1) is effective as against such secured party only with respect to unpaid charges and expenses which have accrued by the end of six months.

Subsec. (c) amended by Acts 1971, 62nd Leg., p. 3048, ch. 1010, § 1, eff. June 15, 1971.

CHAPTER 9. SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER

SUBCHAPTER D. FILING

§ 9.403. What Constitutes Filing; Duration of Filing; Effect of Lapsed Filing; Duties of Filing Officer

* * * * *

(e) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be \$3.00.

Subsec. (e) amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 6, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 2987, ch. 985, § 1, eff. Aug. 30, 1971.

Repeal

Acts 1971, 62nd Leg., p. 2716, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as Vernon's Ann.Civ.St. art. 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this section.

§ 9.404. Termination Statement

* * * * *

(c) The uniform fee for filing and indexing a termination statement including sending or delivering the financing statement shall be \$3.00. Amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 7, eff. Sept. 1, 1969; Subsec. (c) amended by Acts 1971, 62nd Leg., p. 2987, ch. 985, § 2, eff. Aug. 30, 1971.

Repeal

Acts 1971, 62nd Leg., p. 2716, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as Vernon's Ann.Civ.St. art. 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this section.

§ 9.405. Assignment of Security Interest: Duties of Filing Officer; Fees

(a) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in Section 9.403(d). The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment shall be \$3.00.

(b) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be \$3.00.

(c) After the disclosure of filing of an assignment under this section, the assignee is the secured party of record.

Amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 8, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 2987, ch. 985, § 3, eff. Aug. 30, 1971.

Repeal

Acts 1971, 62nd Leg., p. 2716, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as Vernon's Ann.Civ.St. art. 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this section.

§ 9.406. Release of Collateral; Duties of Filing Officer; Fees

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be \$3.00.

Amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 9, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 2988, ch. 985, § 4, eff. Aug. 30, 1971.

Repeal

Acts 1971, 62nd Leg., p. 2716, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as Vernon's Ann.Civ.St. art. 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this section.

§ 9.407. Information From Filing Officer.

Repeal

Acts 1971, 62nd Leg., p. 2716, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as Vernon's Ann.Civ.St. art. 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this section.

*

TEXAS EDUCATION CODE

TITLE 2. PUBLIC SCHOOLS

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- 30. Rehabilitation of Handicapped and Disabled.
- 31. Technical-Vocational Education Act of 1969.
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SUBTITLE A. HIGHER EDUCATION IN GENERAL

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- 52. Student Loan Programs.
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- 107. Texas Woman's University.
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- 135. Texas State Technical Institute.

TITLE 4. COMPACTS

- 160. Regional Education Compact.
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The Texas Education Code as adopted in 1969 codified the general and permanent statutes relating to public education, excluding certain laws relating to higher education.

The laws relating to higher education were included in the Code by Acts 1971, 62nd Leg., p. 3072, ch. 1024, Art. 1, § 1, which amended and reenacted Title 3. Numerous other code sections were either added or amended by the 1971 Act, Art. 2, § 1 et seq. The act declared an intent to codify without substantive change.

Acts 1971, 62nd Leg., p. 1449, ch. 405, which by sections 1 to 53 incorporated the provisions of certain acts passed during the regular and second called sessions of the 61st Legisla-

ture into the Code, and which by section 54 repealed the acts so incorporated, provided in sections 55 and 56:

“Sec. 55. Nothing in this Act is intended to make any change in the substantive law, but this Act is merely intended to be a recodification of the present law.

“Sec. 56. If any other Act passed at the same session of the Legislative conflicts with any provision of this Act, the other Act prevails.”

TITLE 1. GENERAL PROVISIONS

CHAPTER 2. GENERAL PROVISIONS

§ 2.09. Immunization

(a) No person may be admitted to any elementary or secondary school or institution of higher education unless he has been immunized against diphtheria, rubeola, rubella, tetanus, poliomyelitis, and smallpox, except as provided in Subsection (c).

(b) Subject to the provisions of Subsection (c) the State Board of Health may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school or institution of higher education.

(c) No form of immunization is required for a person's admission to any elementary or secondary school or institution of higher education when the person applying for admission submits to the admitting official either of the following:

(1) an affidavit signed by a doctor who is duly registered and licensed under the Medical Practice Act of Texas,¹ in which it is stated that, in the doctor's opinion, the immunization required would be injurious to the health and well-being of the applicant or any member of his family or household; or

(2) an affidavit signed by the applicant or, if a minor, by his parent or guardian stating that the immunization conflicts with the tenets and practice of a recognized church or religious denomination of which the applicant is an adherent or member; provided, however, that this exemption does not apply in times of emergency or epidemic declared by the Commissioner of Health.

(d) The State Department of Health shall provide the required immunizations to children in areas where no local provision exists to provide these services.

(e) A person may be provisionally admitted to an elementary or secondary school or institution of higher education if he has begun the required immunizations and if he continues to receive the necessary immunizations as rapidly as is medically feasible. The State Department of Health shall promulgate rules and regulations relating to the provisional admission of persons to an elementary or secondary school or institution of higher education.

Amended by Acts 1971, 62nd Leg., p. 702, ch. 67, § 1, eff. April 26, 1971; Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1441, ch. 398, § 1, eff. May 26, 1971; Subsec. (e) added by Acts 1971, 62nd Leg., p. 1441, ch. 398, § 2, eff. May 26, 1971.

CHAPTER 4. PENAL PROVISIONS

Section

- 4.29. Falsifying Documents.
- 4.30. Disruptive Activities.
- 4.31. Exhibition of Firearms.
- 4.32. [Blank].
- 4.33. Disruption of Classes.

§ 4.01. Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, § 54(1), eff. May 26, 1971

Section 4.01 prohibited a violation of duty by a school census trustee.

§ 4.17. Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, § 54(1), eff. May 26, 1971

Section 4.17 provided penalties for failure of any school official to use the English language as required by § 21.109.

§ 4.19. Hazing

* * * * *

(f) Nothing in this section shall be construed as in any manner affecting or repealing any law of this state respecting homicide, or murder, manslaughter, assault with intent to murder, or aggravated assault.

Subsec. (f) added by Acts 1971, 62nd Leg., p. 3007, ch. 994, § 1, eff. Aug. 30, 1971.

Section 18 of the 1971 amendatory act provided: "If any other Act passed at the same session of the Legislature conflicts with any provision of this Act, the other Act prevails."

§ 4.23. Loitering on School Property

(a) Any person loitering upon school property after being warned to leave by the person in charge shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 nor more than \$200.00.

(b) School property for the purposes of this Act shall include the grounds of any public school and any grounds or buildings used for school sponsored assemblies or for activities.

Amended by Acts 1971, 62nd Leg., p. 706, ch. 71, § 1, eff. April 26, 1971.

§ 4.25. Thwarting Compulsory Attendance Law

(a) If any parent or person standing in parental relation to a child, within the compulsory school attendance ages and not lawfully exempt or properly excused from school attendance, fails to require such child to attend school for such periods as required by law, it shall be the duty of the proper attendance officer to warn, in writing, the parent or person standing in parental relation that attendance must be immediately required. If after this warning the parent or person standing in parental relation wilfully fails to comply, the attendance officer shall file a complaint against him in the county court, or in the justice court of his resident precinct. Any parent or person standing in parental relation convicted of wilfully violating this section shall be fined not less than \$5 nor more than \$25 for the first offense, not less than \$10 nor more than \$50 for the second offense, and not less than \$25 nor more than \$100 for a subsequent offense. Each day the child remains out of school after the warn-

ing has been given or the child ordered to school by the juvenile court may constitute a separate offense.

* * * * *

(c) At the trial of any person charged with violating the provisions of this section, the attendance records of the child or ward may be presented in court by any authorized employee of the school district.

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 1484, ch. 405, § 3, eff. May 26, 1971; Subsec. (c) added by Acts 1971, 62nd Leg., p. 1484, ch. 405, § 4, eff. May 26, 1971.

§ 4.29. Falsifying Documents

(a) No person may buy, sell, create, duplicate, alter, give, or obtain, or attempt to buy, sell, create, duplicate, alter, give, or obtain a diploma, certificate, academic record, certificate of enrollment, or other instrument which purports to signify merit or achievement conferred by an institution of education in this state with the intent to use fraudulently that document or to allow the fraudulent use of the document.

(b) A person who violates this section or who aids another in violating this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, and/or confinement in the county jail for a period not to exceed one year.

Added by Acts 1971, 62nd Leg., p. 1484, ch. 405, § 5, eff. May 26, 1971.

§ 4.30. Disruptive Activities

(a) No person or group of persons acting in concert may wilfully engage in disruptive activity or disrupt a lawful assembly on the campus or property of any private or public school or institution of higher education or public vocational and technical school or institute.

(b) For the purposes of this section, disruptive activity means:

(1) obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school;

(2) seizing control of any building or portion of a building for the purpose of interfering with any administrative, educational, research, or other authorized activity;

(3) preventing or attempting to prevent by force or violence or the threat of force or violence any lawful assembly authorized by the school administration;

(4) disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or

(5) obstructing or restraining the passage of any person at an exit or entrance to said campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from said property or campus without the authorization of the administration of the school.

(c) For the purposes of this section, a lawful assembly is disrupted when any person in attendance is rendered incapable of participating in the assembly due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur.

(d) A person who violates any provision of this section, is guilty of a misdemeanor and upon conviction is punishable by a fine not to exceed \$200 or by confinement in jail for not less than 10 days nor more than 6 months, or both.

(e) Any person who is convicted the third time of violating this section shall not thereafter be eligible to attend any school, college, or university receiving funds from the State of Texas for a period of two years from such third conviction.

(f) Nothing herein shall be construed to infringe upon any right of free speech or expression guaranteed by the Constitutions of the United States or the State of Texas.

Added by Acts 1971, 62nd Leg., p. 1484, ch. 405, § 6, eff. May 26, 1971.

§ 4.31. Exhibition of Firearms

(a) It shall be unlawful to interfere with the normal activities, the normal occupancy, or normal use of any building or portion of a campus of any private or public school or institution of higher education or public vocational and technical school or institute by exhibiting or using or threatening to exhibit or use a firearm.

(b) A person who violates this section is guilty of a felony and upon conviction is punishable by a fine of up to \$1,000 or by imprisonment in jail for a period not to exceed six months, or by both fine and imprisonment, or by imprisonment in the state penitentiary for a period not to exceed five years.

Added by Acts 1971, 62nd Leg., p. 1485, ch. 405, § 7, eff. May 26, 1971.

§ 4.32. [Blank]

§ 4.33. Disruption of Classes

(a) Any person who, on school property or on public property within 500 feet of school property, shall alone or in concert with others willfully disrupt the conduct of classes or other school activities shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine not to exceed \$200.

(b) In this section:

“(1) ‘School property’ shall include public school campuses or school grounds upon which any public school is located, and any grounds or buildings used by a school for assemblies or other school-sponsored activities.

(2) ‘Public property’ shall include any street, highway, alley, public park, or sidewalk.

(3) Conduct which disrupts the educational activities of a school includes:

(A) emission by any means of noise of an intensity which prevents or hinders classroom instruction;

(B) enticement or attempted enticement of students away from classes or other school activities which students are required to attend; and

(C) prevention or attempted prevention of students from attending classes or other school activities which students are required to attend.

(c) The provisions of this section shall be cumulative of existing law, and should any portion hereof be found to be in conflict with any provision of existing law, the provisions hereof shall prevail. (H.B.No.186, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3341, ch. 1024, Art. 2, § 11, eff. Sept. 1, 1971.

TITLE 2. PUBLIC SCHOOLS

CHAPTER 11. CENTRAL EDUCATION AGENCY

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 11.051. Travel and Clothing Expenses for Certain Deaf Students.
- 11.101. Education of Deaf in Private Schools.
- 11.16. Educational Program for Deaf Adults.

SUBCHAPTER B. STATE BOARD OF EDUCATION

- 11.311. Student Teacher Centers.
- 11.35. High School Equivalency Examinations.

SUBCHAPTER A. GENERAL PROVISIONS

§ 11.051. Travel and Clothing Expenses for Certain Deaf Students

(a) In this section, "economically deprived children" means children having parents or guardians whose financial condition is such that it would work a hardship upon them to pay the travel or clothing expenses of their children.

(b) The travel expenses of economically deprived children attending the Texas School for the Deaf shall be paid by the state out of funds appropriated by the legislature. The superintendent of the school shall, subject to the requirements of Subsection (c) of this section, make the determination in his sole discretion of which children are entitled to have their travel expenses paid.

(c) No money appropriated for travel expenses may be expended except in compliance with the following rules:

(1) The travel expenses shall be paid only when it is necessary for the student to travel to his home, and only for trips to and returning from his home.

(2) The superintendent of the school shall plan the travel of students so as to achieve maximum economy and efficiency.

(3) A student traveling by rented or public conveyance is entitled to a travel allowance equal to the actual cost of necessary transportation, meals, and lodging.

(d) The expenses of purchasing clothes for economically deprived children attending the Texas School for the Deaf shall be paid out of funds appropriated by the legislature. The superintendent of the school shall make the determination in his sole discretion of which children are entitled to have clothes purchased for them. (S.B.No.292, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3348, ch. 1024, Art. 2, § 21, eff. Sept. 1, 1971.

§ 11.10. Special Day Schools for the Deaf

* * * * *

(b) The provisions of this section may apply to any two contiguous counties whose cumulative population exceeds 240,000 but does not exceed 335,000, according to the last preceding federal census, provided that such two-county day schools shall be administered by one school district designated by the Central Education Agency.

* * * * *

(d) (1) All deaf children between the scholastic ages of 6 and 21, inclusive, residing in the county or multi-county providing a day school program herein authorized for such scholastics, shall be eligible to attend the school designated by the operating district.

(2) Provided, however, not later than June 1, the governing board of any school district, within a county or multi-county which has in operation a day school program approved under this law, may file with the Central Education Agency notice withdrawing for a next ensuing school year from such day school program to operate in lieu thereof an exceptional children program providing for the education of all its resident deaf children under applicable provisions of Subsection (4)a of Section 1 of Article III, Chapter 334, Acts of the 51st Legislature, 1949, as amended (Article 2922—13,¹ Vernon's Texas Civil Statutes).

¹ Repealed by Acts 1969, 61st Leg., p. 3024, ch. 889, § 2.

* * * * *

(i) Operating costs for the program in each county shall be determined and paid on the basis of the following factors:

(1) one teacher unit shall be allocated for every eight eligible deaf pupils or major fraction of eight, except that in the case of a bi-county day school authorized by Subsection (b) of this section which has participating school districts as authorized by Subsection (c) of this section one teacher unit shall be allocated for every seven eligible deaf pupils or major fraction of seven;

(2) schools with 15 or more teacher units shall be allocated a full-time principal unit except that a bi-county day school authorized by Subsection (b) of this section which has participating school districts as authorized by Subsection (c) of this section shall be allocated a full-time principal unit;

(3) one supervisor shall be allocated for every 10 teacher units but not to exceed three supervisors; provided, however, that each approved school shall have at least one supervisor;

(4) one visiting teacher unit shall be allocated for each county-wide or bi-county day school for the deaf;

(5) salaries of the teacher, supervisor, principal, and visiting teacher shall be determined, respectively, in accordance with the official salary schedule of the district where the day school is established;

(6) an operation expense allotment, including transportation, of \$700 per each eligible deaf pupil enrolled in the program each current school year;

(7) one initial allotment in the amount of \$3,000 per each teacher unit approved for the first year of operation only shall be allowed for the acquisition of transportation vehicles, auditory and other classroom equipment, and other aids and adjustments needed for training the deaf pupils in this program; and

(8) an allocation of \$1,000 operating fund for each continuing teacher unit activated for the 1969-1970 school year shall be made.

* * * * *

(l) Except for school districts in any county already participating in the operation of countywide special day schools for the deaf, school districts in counties contiguous to counties participating in bi-county day schools for the deaf and also school districts in counties contiguous to those counties authorized to be added under this subsection may participate in the multi-county day school for the deaf program upon approval by the Texas Education Agency of requests from the applying school district and the school district designated to conduct the school. Participation of school districts in all counties authorized to be added to the multi-county day school for the deaf program by this subsection shall be on the same basis as for school districts within the counties already included in the program.

(m) For the purposes of this section, any bi-county day school for the deaf which serves one or more additional counties may be referred to as a multi-county day school.

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1485, ch. 405, § 7a, eff. May 26, 1971; Subsec. (d) amended by Acts 1971, 62nd Leg., p. 1650, ch. 464, § 1, eff. May 27, 1971; Subsec. (i) amended by Acts 1971, 62nd Leg., p. 1485, ch. 405, § 8, eff. May 26, 1971; Subsec. (l), (m) added by Acts 1971, 62nd Leg., p. 1486, ch. 405, § 9, eff. May 26, 1971.

§ 11.101. Education of Deaf in Private Schools

(a) The Central Education Agency may under the rules and regulations of the State Board of Education contract with private schools for the deaf to provide education and training for deaf children who are eligible for admission to the Texas School for the Deaf.

(b) Any contract authorized by this section shall provide for standards of education and training, and standards for buildings, equipment, and facilities at least equal to those provided by the Texas School for the Deaf.

(c) The amount paid under a contract authorized by this section on account of each eligible child shall not exceed the average cost per child under the program of countywide day schools for the deaf.

(d) The cost of this program shall be borne entirely by the state and shall be paid from the Foundation School Program. The total cost of this program shall be considered and included by the Foundation School Fund Budget Committee in estimating the funds needed for the Foundation School Program.

Added by Acts 1971, 62nd Leg., p. 1486, ch. 405, § 10, eff. May 26, 1971.

§ 11.11. Program for Non-English Speaking Children

(a) The Central Education Agency shall develop a special program for non-English speaking children.

(b) The purpose of the program shall be to prepare such children for entry in the first grade of the Texas public schools by providing them with a command of essential English words which will afford them a better opportunity to complete successfully the work assigned them.

(c) The program for non-English speaking children shall cover a period of not to exceed four and one-half months.

(d) Any non-English speaking child who is at least five years of age and who will be eligible to enter the first grade in the ensuing school year may be enrolled.

(e) The Central Education Agency shall establish the academic requirements for teachers who teach in this program and issue certificates to those who meet such standards.

(f) The cost of operating this program shall be borne by the state and each participating district on the same percentage basis applicable to financing the Foundation School Program within the district. The state's share of the cost of the program shall include a monthly salary not to exceed one-half the prevailing minimum salary schedule with increments as prescribed for classroom teachers in Subchapter D, Chapter 16 of this code, as well as a maintenance and operational allotment of \$50 per month for each teacher. The state's share of the cost shall be paid from the foundation school program fund, and shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes.

(g) This program shall not be set up in any school district, or combination of school districts, unless at least 15 children qualify. The extent to which any school district shall participate in the foundation school program fund over and above the first unit shall be based on an

average daily attendance of 20 eligible pupils. No state funds provided for in this section shall be used by the school district for any purpose other than for the non-English speaking program.

Amended by Acts 1971, 62nd Leg., p. 1487, ch. 405, § 11, eff. May 26, 1971.

§ 11.15. Advisory Council for Language-Handicapped Children

(a) The Advisory Council for Language-Handicapped Children shall consist of 12 members appointed by the governor, each member to serve a term of two years from the date of his appointment. A member may be reappointed for more than one term.

* * * * *

(f) The council shall report to the 63rd Legislature its findings and recommendations concerning the establishment of statewide diagnostic and treatment facilities for language-handicapped children.

* * * * *

(i) The commissioner of education shall transmit to the 62nd Legislature an interim report on the status of the research into the problem of diagnosing and treating language-handicapped children. He shall include in his report an itemized estimate of the money required to conclude the research project satisfactorily by August 31, 1972.

(j) The council ceases to exist at midnight August 31, 1972.

Subsecs. (a), (f), (i), (j) amended by Acts 1971, 62nd Leg., p. 1487, ch. 405, § 12, eff. May 26, 1971.

§ 11.16. Educational Program for Deaf Adults

(a) The Central Education Agency shall establish and develop a State program for the education of deaf adults. The purpose of the program is to provide primary and secondary educational opportunities to adults whose hearing loss is severe enough to prevent use of the spoken method of communication and whose handicap has interfered with the attainment of a level of educational advancement otherwise potentially achievable.

(b) In the program the agency shall include:

(1) criteria and standards consistent with the purposes of this Act for determining the degree of hearing loss which makes a person eligible for education under this Act;

(2) criteria and standards for determining teachers' qualifications, curriculum, equipment, and classroom facilities which must be provided by a school district to qualify it for State assistance under this Act.

(c) The agency shall make, publish, and distribute rules under which school districts may apply for, qualify for, and receive State assistance for the administration of educational programs for deaf adults.

(d) Any school district may establish an educational program for deaf adults. To qualify for State assistance, a district must comply with the rules and standards of the Central Education Agency and must have at least 10 eligible deaf adult enrollees.

(e) Subject to legislative appropriation of money from the general revenue fund, the available school fund, the minimum foundation program fund, or any other available fund, the Central Education Agency shall allocate to each qualifying school district the sum of Two Hundred Fifty Dollars (\$250) per year for each student enrolled in the district's educational program for deaf adults.

Added by Acts 1971, 62nd Leg., p. 1644, ch. 460, § 1, eff. May 27, 1971.

SUBCHAPTER B. STATE BOARD OF EDUCATION

§ 11.21. Composition of Board

The State Board of Education is composed of one member elected from each congressional district established by law.

Amended by Acts 1971, 62nd Leg., 1st C.S. p. 3435, ch. 5, § 1, eff. June 15, 1971.

§ 11.22. Membership

* * * * *

(h) At the general election in 1972, and at each general election thereafter immediately following a decennial reapportionment of congressional districts, one member shall be elected to the board from each congressional district. Except as provided in Subsection (i) of this section, members of the board serve staggered terms of six years with the terms of one-third of the members expiring on December 31 of each odd-numbered year.

(i) One-third of the members of the board elected in 1972 and at each general election following a decennial reapportionment of congressional districts shall serve for terms of two years, one-third for four years, and one-third for six years. Members shall draw lots to determine which shall serve for terms of two, four, and six years. If the total number of members divided by three results in a remainder of one, one additional six-year term shall be filled by lot. If the total number of members divided by three results in a remainder of two, one additional six-year term and one additional four-year term shall be filled by lot.

Subsec. (h), (i) amended by Acts 1971, 62nd Leg., 1st C.S. p. 3435, ch. 5, § 2, eff. June 15, 1971.

* * * * *

§ 11.23. Meetings and Organization

(a) The board shall hold regular meetings in Austin, Texas, on the second Saturday in January, March, May, July, September, and November. It may hold other meetings as scheduled by its formal sessions or as may be called by the chairman.

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 1581, ch. 428, § 1, eff. May 26, 1971.

* * * * *

§ 11.26. Powers and Duties Related to Educational Needs of the State

* * * * *

(c) All rules promulgated by the State Board of Education concerning the qualifications of personnel employed to fill the positions classified by the Central Education Agency shall contain the provisions stating that when specifically requested by a local board, persons holding a degree and a permanent teaching certificate, and already employed to fill the positions for which new qualifications are set shall not be disqualified from holding the positions for failure to meet the new qualifications.

Subsec. (c) added by Acts 1971, 62nd Leg., p. 2400, ch. 753, § 1, eff. June 8, 1971.

§ 11.311. Student Teacher Centers

(a) To provide college students facilities and supervision for student teaching experience required by law as a prerequisite to the is-

suance of a valid Texas teaching certificate, it is necessary that joint responsibility among the colleges or universities approved for teacher education by the State Board of Education of this state, the Texas public school districts, and the State of Texas be hereby established.

(b) The Central Education Agency, with the assistance of colleges, universities, and public school personnel, shall establish standards for approval of public school districts to serve as Student Teacher Centers, and define the cooperative relationship between the college or university and the public school which serves the student teaching program.

(c) The approved public school district serving as a student teacher center and the college or university using its facilities shall jointly approve or select the supervising teachers, employees of the district, to serve in the program and adopt an agreed continuing in-service improvement program for supervising teachers.

(d) There shall be paid to the public school district serving as a student teacher center the sum of \$200 for each supervising teacher, to be an additional increment for such additional services to the annual salary of each such serving supervising teacher. In addition there shall be paid to the district the sum of \$50 per each supervising teacher usable to assist in meeting the costs incurred in providing facilities for student teaching. This total, \$250 per supervising teacher, shall be paid from the Minimum Foundation Program Fund; this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes. The total number of supervising teachers to receive the additional increment herein provided shall never exceed 70 percent of the total number of student teachers enrolled in the practice teaching program.

Added by Acts 1971, 62nd Leg., p. 1488, ch. 405, § 13, eff. May 26, 1971.

§ 11.33. Regional Education Service Centers

* * * * *

Text of subsection (c) as added by Acts 1971,
62nd Leg., p. 1488, ch. 405, § 14

(c) A program of financial assistance for computer services to school districts of the state through Regional Education Service Centers shall be developed by the State Board of Education to encourage a planned statewide network or system of computer services designed to meet public school educational needs, current and future. Toward achievement of maximum efficiency and to insure a practicable uniformity in services, the State Board of Education, by rules and regulations, shall adopt eligibility requirements for data processing computer services to receive the state financial assistance authorized herein.

Subsec. (c) added by Acts 1971, 62nd Leg., p. 1488, ch. 405, § 14, eff. May 26, 1971.

For text of subsection (c) as added by Acts 1971, 62nd Leg., p. 2053, ch. 631, § 1, see subsection (c), post.

Text of subsection (c) as added by Acts 1971,
62nd Leg., p. 2053, ch. 631, § 1

(c) Basic costs for the provision of regional education services to school districts and coordination of educational planning in the region and for administrative costs necessary to support these services shall be paid from the Foundation School Program under a formula developed by the state commissioner of education and approved by the State Board of Education. Such allotment amounts here authorized to be granted by the

State Board of Education shall not exceed in any year a sum equal to \$2 multiplied by the average daily attendance in the public schools of Texas as determined for the next preceding school year. This subsection shall be effective when cited in the General Appropriation Act.

Subsec. (c) added by Acts 1971, 62nd Leg., p. 2053, ch. 631, § 1, eff. Aug. 30, 1971.

For text of subsection (c) as added by Acts 1971, 62nd Leg., p. 1488, ch. 405, § 14, see subsection (c), ante.

(d) Only computer services that are provided by or through a Regional Education Service Center to make available computer services required to meet the needs of the school districts of one or more Education Service Center regions shall be eligible for financial assistance hereunder.

(e) The Central Education Agency annually shall approve a state assistance allotment to be paid to eligible Regional Education Service Centers that qualify, and in an amount to be determined under rules and regulations adopted by the State Board of Education for that purpose; provided that the allotment amounts here authorized to be granted by the State Board of Education shall not exceed in any year a sum equal to \$1 multiplied by the average daily attendance in the public schools of Texas as determined for the next preceding school year.

(f) The state's share of the cost of this program authorized by Subsections (c), (d), and (e) of this section shall be paid from the Foundation School Fund, and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes.

Subsecs. (d), (e), (f) added by Acts 1971, 62nd Leg., p. 1488, ch. 405, § 14, eff. May 26, 1971.

§ 11.35. High School Equivalency Examinations

The State Board of Education shall provide for the administration of high school equivalency examinations. Any person over the age of 17 who does not have a high school diploma may take the examination in accordance with the rules and regulations promulgated by the board.

Added by Acts 1971, 62nd Leg., p. 2490, ch. 812, § 1, eff. June 8, 1971.

SUBCHAPTER C. THE STATE BOARD OF VOCATIONAL EDUCATION

§ 11.43. Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, § 54(1), eff. May 26, 1971

Section 11.43 provided for cooperation with the congressional act promoting vocational rehabilitation.

CHAPTER 12. TEXTBOOKS**SUBCHAPTER A. GENERAL PROVISIONS****Section**

12.04. Textbooks for Children Enrolled in Kindergarten Classes.

SUBCHAPTER A. GENERAL PROVISIONS**§ 12.04. Textbooks for Children Enrolled in Kindergarten Classes**

(a) The State Board of Education may acquire, purchase, and contract for, with or without bids, subject to rules and regulations adopted by the board, free textbooks recommended as suitable by the State Textbook Committee in accordance with guidelines established by the Central Education Agency for the education of children enrolled in kindergarten classes in the public school systems of this State.

(b) For purposes of this section, "textbooks" means books and any apparatus, including three-dimensional manipulative materials, which convey information to the scholastic or otherwise contribute to the learning process. The Central Education Agency shall establish guidelines clearly delimiting the types of material most effectively used in helping kindergarten children learn and most appropriately delimiting the definition of the term "textbooks" for the purposes of this section.

(c) All textbooks for kindergarten children available and submitted on invitation shall be examined by the State Textbook Committee in accordance with the guidelines established by the Central Education Agency for its recommendation as to their suitability for use in the public school systems.

(d) Textbooks for kindergarten children and teacher copies requisitioned and purchased by the board pursuant to contract signed by the chairman and all administrative costs shall be paid out of the textbook fund of this State.

(e) Textbooks for kindergarten children may be obtained and distributed by the Central Education Agency pursuant to rules and regulations adopted by the State Board of Education as it may act on recommendations of the State Textbook Committee and the Commissioner of Education.

(f) All textbooks acquired by the provisions of this section shall be the property of the State of Texas, to be controlled, distributed, and disposed of pursuant to board regulations.

(g) Each school district may elect to receive an allotment of \$400 at the time each new kindergarten classroom is established by the district in lieu of textbooks procured under the provisions of this section. The option shall be open only at the time each classroom is initiated, and thereafter textbooks shall be procured in the usual manner. If the school district elects to receive the \$400 allotment, it shall use the funds only for the purpose of purchasing teaching materials for the kindergarten class which meet the standards and guidelines established by the Texas Education Agency.

Added by Acts 1971, 62nd Leg., p. 1396, ch. 377, § 1, eff. May 26, 1971.

**SUBCHAPTER B. STATE ADOPTION, PURCHASE,
ACQUISITION, AND CUSTODY**

§ 12.31 Central Depositories

(a) All parties with whom existing book contracts have been or hereafter may be made shall establish or designate a depository in some city of this State approved by the State Board of Education as the shipping point for depositories, where a stock of their goods to supply all immediate demands shall be kept. All contractors not maintaining their own separate or individual depository shall designate and/or maintain a joint agency or depository in a city of this State approved by the State Board as the shipping point for depositories. At such approved depository each contractor joining in such joint depository shall keep on hand a sufficient stock of books to supply the schools of the State.

(b) The designation of any depository(ies) for purposes as required in above subsection (a), and/or any change thereof shall be subject to the approval of the State Board of Education.

Amended by Acts 1971, 62nd Leg., p. 2427, ch. 775, § 1, eff. Aug. 30, 1971.

CHAPTER 13. TEACHERS

**SUBCHAPTER A. SCOPE OF CHAPTER;
GENERAL PROVISIONS**

Section

- 13.001. Scope of Chapter.
- 13.002. Salaries.
- 13.003. Retirement.

[Sections 13.004 to 13.030 reserved for expansion]

SUBCHAPTER B. CERTIFICATION OF TEACHERS

- 13.031. State Board of Examiners for Teacher Education.
- 13.032. Rules and Regulations.
- 13.033. Filing of Application and Payment of Fees.
- 13.034. Qualifications.
- 13.035. Classes of Certificates.
- 13.036. Provisional Certificate.
- 13.037. Professional Certificate.
- 13.038. Duration of Certificate.
- 13.039. Certificate Areas of Specialization.
- 13.040. Emergency Teaching Permits.
- 13.041. Transition Certificates.
- 13.042. Certificates and College Credentials From Other States.
- 13.043. Certificates for Teaching in the Texas School for the Deaf or the Texas School for the Blind.
- 13.044. Alien Teachers.
- 13.045. Presentation and Recording of Certificates.
- 13.046. Cancellation of Certificates.

[Sections 13.047 to 13.100 reserved for expansion]

SUBCHAPTER C. TEACHERS' EMPLOYMENT CONTRACTS

- 13.101. Probationary or Continuing Contract.
- 13.102. Probationary Contract.

Section

- 13.103. Probationary Contract: Termination.
- 13.104. Hearing.
- 13.105. Probationary Contract: Exception.
- 13.106. Continuing Contract.
- 13.107. Status Under Continuing Contract.
- 13.108. Administrative Personnel.
- 13.109. Discharge During Year.
- 13.110. Release at End of Year.
- 13.111. Notice.
- 13.112. Hearing.
- 13.113. Suspension Without Pay.
- 13.114. Decision of Board.
- 13.115. Appeals.
- 13.116. Resignations.

[Sections 13.117 to 13.200 reserved for expansion]

SUBCHAPTER D. TEACHERS' PROFESSIONAL PRACTICES

- 13.201. Responsibilities of the Teaching Profession.
- 13.202. Definitions.
- 13.203. Professional Practices Commission.
- 13.204. Qualifications of Members.
- 13.205. Appointment.
- 13.206. Terms of Office.
- 13.207. Expenses.
- 13.208. Officers; Meetings; Rules.
- 13.209. Privileged Status of Members.
- 13.210. Adoption of Code of Ethics and Standard Practices.
- 13.211. Unprofessional Practice.
- 13.212. Advisory Function of Commission.
- 13.213. Complaint, Notice, Hearing, Recommendations.
- 13.214. Action of Commissioner on Complaints.
- 13.215. Appeals.
- 13.216. Strikes, Etc.
- 13.217. Right to Join or Not to Join Professional Association.
- 13.218. Local Authority.

[Sections 13.219 to 13.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

- 13.901. Employment Consultation With Teachers.
- 13.902. Planning and Preparation Time.
- 13.903. Uniform Retirement Age.
- 13.904. Minimum Sick Leave Program.

Chapter 13 of this Code, formerly entitled "Certification of Teachers" and consisting of Sections 13.01 to 13.16, was amended by Acts 1971, 62nd Leg., p. 1468, ch. 405, § 2, effective May 26, 1971, to consist of Subchapters A to D and Z containing Sections 13.001 to 13.904. The provisions of former Sections 13.01 to 13.16 were thereby incorporated as Sections 13.031 to 13.046 of Subchapter B.

The provisions of former Subchapter G of Chapter 21 of the Code, consisting of sections 21.201 to 21.216, were transferred to Chapter 13 as Subchapter C consisting of sections 13.101 to 13.116, by Acts 1971, 62nd Leg., p. 1474, ch. 405, §§ 2, 54(1).

SUBCHAPTER A. SCOPE OF CHAPTER; GENERAL PROVISIONS**§ 13.001. Scope of Chapter**

The provisions of this chapter apply to the teachers of the public schools of the state and, as indicated by the context, to the auxiliary employees of the public schools. However, this chapter is not exclusive, and its provisions shall be construed as necessary along with other provisions of this code applicable to teachers and auxiliary employees.

§ 13.002. Salaries

Salaries of teachers and other personnel are governed by Subchapter D, Chapter 16 of this code.

§ 13.003. Retirement

Retirement of teachers and other personnel is governed by Chapter 3 of this code.

[Sections 13.004 to 13.030 reserved for expansion]

SUBCHAPTER B. CERTIFICATION OF TEACHERS**§ 13.031. State Board of Examiners for Teacher Education**

(a) The state commissioner of education shall be authorized to appoint a board of examiners for teacher education consisting of not less than three competent teachers, living in the state, to serve during his pleasure, and he may increase or decrease the number as varying conditions may make necessary.

(b) It shall be the additive and cumulative duty of every person who is a state employee, teacher, professor, or officer of any of the state institutions of higher learning, and drawing a state warrant for salary as such, to serve as an ex officio member of the board of examiners for teacher education when called upon by the state commissioner of education for the performance of such ex officio duties.

Originally § 13.01.

§ 13.032. Rules and Regulations

(a) The State Board of Education, with the advice and assistance of the state commissioner of education, is authorized to establish such rules and regulations as are not inconsistent with the provisions of this chapter and which may be necessary to administer the responsibilities vested under the terms of this chapter concerning the issuance of certificates and the standards and procedures for the approval of colleges and universities offering programs of teacher education.

(b) In order to secure professional advice for his recommendations to the State Board of Education, the state commissioner of education shall consider recommendations of the board of examiners for teacher education in all matters covered by this chapter.

Originally § 13.02.

§ 13.033. Filing of Application and Payment of Fees

(a) Any person eligible to obtain a teacher certificate of any kind or classification provided for in this chapter shall make application to the state commissioner of education, stating the class of certificate or certificates desired, and shall present to the commissioner such proof as this and other teacher certification laws require concerning his qualifications and fitness for the class of certificate requested.

(b) No applicant shall receive a teacher certificate of any class or kind, except as otherwise provided in this chapter, without first depositing with the state commissioner of education the application fee prescribed to be paid under the provisions of this chapter for the particular type or class of certificate requested.

(c) All application fees collected under the provisions of the teacher certification laws shall be used to cover the expenses of inspection and identification of approved college or university teacher education programs and of recording and issuing certificates.

Originally § 13.03.

§ 13.034. Qualifications

(a) No person shall receive a certificate authorizing his employment in the public schools of Texas without showing to the satisfaction of the state commissioner of education that he:

(1) is a person of good moral character, evidenced by written statements of three good and well-known citizens, or such proof as the commissioner may require of his moral qualifications;

(2) will support and defend the constitutions of the United States and the State of Texas;

(3) has secured credit from a college or university in this state in a course or courses (government or political science) which give special emphasis on the Texas Constitution and has secured credit from a college or university in a course or courses (government or political science) which give special emphasis on the United States Constitution, or shall have passed examination(s) administered under the direction of the Central Education Agency, in the one or both, as the situation demands; and

(4) has ability to speak and understand the English language sufficiently to use it easily and readily in conversation and teaching.

(b) No certificate shall be granted to a person under 18 years of age.

Originally § 13.04.

§ 13.035. Classes of Certificates

Teacher certificates authorizing the holders thereof to contract to teach, or to be employed in professional teaching service positions in the public schools of this state, shall be of two classes, designated as provisional certificates and professional certificates.

Originally § 13.05.

§ 13.036. Provisional Certificate

(a) The provisional certificate shall be issued to each applicant who has acquired, or shall acquire, a bachelor's degree conferred by a college or university approved for teacher education by the State Board of Education of Texas, and who is otherwise eligible to teach in the public schools of this state.

(b) Vocational teachers in trade and industrial courses shall not be required to have a bachelor's degree as a predicate to the issuance of a provisional certificate to them, but must in lieu of the bachelor's degree requirement have work experience to the extent that shall be established in the state plan for vocational education.

(c) A special teacher designated as a school nurse shall not be required to have a bachelor's degree as a predicate to the issuance of a provisional certificate, but must in lieu thereof have been certified as a registered nurse under the laws of this state.

(d) An application fee of \$2 shall be paid by each applicant for the certificate provided for herein.

Originally § 13.06.

§ 13.037. Professional Certificate

(a) The professional certificate shall be issued to each applicant who has acquired a bachelor's degree conferred by a college or university approved for teacher education by the State Board of Education; who has satisfactorily completed at least 30 additional graduate-level hours, that shall be completed in accordance with an approved college plan of gradu-

ate teacher education designed for the purpose of qualifying the applicant to serve in the area or areas of specialization to appear on his certificate, in a college or university which has an approved graduate program of teacher education; and who has at least three years of teaching experience.

(b) The State Board of Education acting on recommendation of the state commissioner of education shall define by regulations what constitutes a year of teaching experience for purposes of this section.

(c) An application fee of \$3 shall be paid by each applicant for the certificate provided for in this section.

Originally § 13.07.

§ 13.038. Duration of Certificate

Either a provisional or professional certificate shall be permanent and valid for life, unless cancelled by lawful authority.

Originally § 13.08.

§ 13.039. Certificate Areas of Specialization

(a) The provisional and professional certificates shall show clearly that the holders thereof may teach or perform duties in professional service positions in one or more of the specialization areas in which the applicant shall have completed the college or university teacher education program approved for such area(s).

(b) The specialization areas shall be in:

(1) the elementary schools, including kindergartens, grades 1 to 8 inclusive, and in grade 9 in junior high school;

(2) junior high schools, including grades 6 to 10 inclusive;

(3) high schools, including grades 7 to 12 inclusive;

(4) in a special subject for all grades; and

(5) in a professional service position or area as provided in the foundation school program law.

(c) The specialization area or areas designated above (which are to appear on the face of the certificate issued to an eligible applicant) shall be based upon the satisfactory completion by the applicant of a college or university teacher education program approved in one or more of the above five areas of specialization by the State Board of Education as recommended by the state commissioner of education.

Originally § 13.09.

§ 13.040. Emergency Teaching Permits

An emergency permit to teach, valid for not more than one scholastic year, may be issued under regulations adopted by the State Board of Education upon recommendation of the state commissioner of education. An application fee of \$1 shall be paid by an applicant for the permit authorized herein, and for each necessary renewal thereof.

Originally § 13.10.

§ 13.041. Transition Certificates

(a) "Permanent," as used throughout this section, shall mean valid for life unless cancelled by lawful authority.

(b) All persons enrolled in a college approved for teacher education and preparing for the teaching profession and all persons or teachers qualified for teacher certification or certified to teach in the public schools of this state prior to September 1, 1955, are safeguarded and protected in their right or privilege to pursue and continue in the teaching profession or training. Such persons as are eligible therefor shall receive, on application, the certificate or certificates authorized in Subsections (c), (d), (e), (f), (g), (h), and (j) of this section.

(c) A non-degree teacher who, on September 1, 1955, held a valid permanent teacher certificate issued upon prior certification laws of this state, and who is employed as a teacher in any scholastic year, on application, shall be issued a provisional certificate marked permanent.

(d) A non-degree teacher who, on September 1, 1955, held a valid temporary certificate issued under prior certification laws of this state, and who is employed as a teacher in any scholastic year thereafter, on application, shall be issued a provisional certificate marked temporary. This certificate shall be good for the remaining years of validity of his previous temporary certificate, but on expiration may be revived and continued by complying with the certification laws in effect at the time the temporary certificate was issued. Upon the holder's completion of the requirements entitling him to a permanent certificate, as prescribed by law pursuant to which his temporary certificate was issued, the provisional certificate shall be marked permanent.

(e) Any person who, prior to September 1, 1955, had established his eligibility for any teacher certificate under the then-existing certification laws of this state may apply for and receive the state certificate to which he was entitled under such laws on payment of the fees prescribed. On application, such person may also receive the class of certificate to which the provisions of this chapter entitle him.

(f) Any teacher who has a bachelor's degree, holds a valid Texas teacher certificate, has five years or more of teaching experience, and is employed as a teacher in any scholastic year following September 1, 1955, shall, on application, be issued a professional certificate. Such a teacher may, however, substitute six semester hours of college credit earned in a college or university approved for teacher education, and acquired after the conferring of his bachelor's degree for a year of teaching experience, but no more than three years (a total of 18 semester hours) of college credit may be substituted in order to qualify for a professional certificate.

(g) Any teacher who has a bachelor's degree, holds a valid Texas teacher certificate, but has less than five years of teaching experience (and cannot meet the requirements in Subsection (f) of this section for college credit in lieu of teaching experience), and who is employed as a teacher in any scholastic year following September 1, 1955, shall, on application, be issued a provisional certificate marked "permanent."

(h) Any teacher who has a master's degree, holds a valid Texas teacher certificate, and is employed as a teacher in any scholastic year following September 1, 1955, shall, on application, be issued a professional certificate.

(i) Any person who, prior to September 1, 1955, was enrolled in a program leading to a bachelor's degree in a college or university approved for teacher education may continue to pursue the program established or altered by the college. On completion of the program and acquisition of the bachelor's degree, he shall be issued, on application and payment of fee prescribed therefor, the kind of certificate for which such preparation entitled him under the previous certification law when his college program was begun.

(j) Any person who held a valid permanent teaching certificate prior to September 1, 1955, shall, on application, be issued a professional certificate. If any part of this chapter is in conflict with this subsection, then this subsection shall control.

(k) There shall be no fee charged for the issuance of either class of new transitional certificates authorized under this section.

(l) The new classes of transitional certificates authorized to be issued under this section shall have designated on their face the area(s) of specialization corresponding to those specializations authorized by the applicable provisions of the previous certification laws.

Originally § 13.11.

§ 13.042. Certificates and College Credentials From Other States

(a) A person who holds a bachelor's or higher degree from another state and who desires a Texas certificate shall present such out-of-state

certificate and official college transcript to the state commissioner of education, who shall require the State Board of Examiners for Teacher Education to make investigation as to the value of the transcript or certificate, as measured by the standards for certificates in Texas. The commissioner of education shall have the power to issue to the holder of a valid certificate or bachelor's or higher degree from another state a Texas certificate which in his judgment the holder merits when the value of his degree or certificate is measured by the standards required for Texas certificates. But no certificate may be issued if the degree or certificate presented is not deemed to meet the requirements for a Texas provisional certificate.

(b) No Texas teacher certificate shall be issued to a person from another state, as provided in Subsection (a) of this section, until that person has secured credit from a college or university in this state in a course or courses which give special emphasis on the Texas Constitution and has secured credit from a college or university in a course or courses which give special emphasis on the United States Constitution, or shall have passed examination(s), administered under the direction of the Central Education Agency, in one or both, as the situation demands. The course or courses may be taken by correspondence, extension classes, or in residence.

(c) Any person who applies for a Texas teacher certificate on credentials from another state, as provided in Subsection (a) of this section, may be issued by the state commissioner of education an emergency permit, which will indicate on its face the area of specialization and the class of certificate which the applicant shall be entitled to receive upon completion of the requirement set out in Subsection (b) of this section. The emergency permit shall entitle the applicant to teach in the area of specialization appearing on its face and shall be valid for a period not exceeding one scholastic year. No more than one emergency permit authorized in this subsection shall be issued to any applicant. The applicant shall be required to pay a fee of \$2 for the issuance of the emergency permit as well as an additional fee, prescribed in this chapter, for the issuance of a valid Texas teacher certificate when he qualifies and makes application therefor.

Originally § 13.12.

§ 13.043. Certificates for Teaching in the Texas School for the Deaf or the Texas School for the Blind

(a) A provisional certificate to teach the deaf or blind shall be issued, on application and payment of fees, to any person who is 18 years of age; has satisfactorily completed a four-year course of study in an accredited college, professional or technical school, or a university or college approved for teacher education; and has graduated with a degree including 10 semester hours of education (with not less than five of these covering principles and methods of teaching the type of handicapped children he is being certified to teach).

(b) Applicants for certificates to teach industrial and special subjects may substitute four years of trade or professional experience or successful teaching experience for college work, but the certificates issued for these industrial and special subjects shall authorize the holder to teach only such subjects in the Texas School for the Deaf or the Texas School for the Blind.

(c) Any teacher, who prior to 1935 had five years of successful teaching experience of particular types of handicapped children or of industrial and special subjects in the School for the Deaf or the School for the Blind, shall be granted a permanent provisional certificate entitling him to teach those types of children or subjects in the Texas School for the Deaf or the Texas School for the Blind.

(d) Any person now holding a valid teacher certificate, or who may hereafter be granted a certificate, may be deemed qualified to teach in the Texas School for the Deaf or the Texas School for the Blind.

Originally § 13.13.

§ 13.044. Alien Teachers

(a) No certificate of any type shall be issued to an alien unless proper evidence is produced showing his intention to become a naturalized citizen of the United States of America.

(b) It shall be unlawful for any board of trustees of any public school district of this state to contract with any person who is an alien to teach, unless the person has declared his intention to become a citizen of the United States. Except as provided in Subsection (c) of this section, any contract in violation of this provision shall be void and of no effect.

(c) If a like privilege is currently granted by any nation to any teacher designated by the governing body of a school district in this state, Subsection (b) of this section shall not apply to any alien teacher, a subject of that nation, who has been regularly designated by proper authority to serve as an exchange teacher in the United States and to teach in the public schools of Texas for not more than one year.

Originally § 13.14.

§ 13.045. Presentation and Recording of Certificates

(a) The county superintendent shall keep a record of all certificates held by persons teaching in the public schools of all common school districts, rural high school districts, and independent school districts having less than 150 scholastics (according to the last scholastic census approved by the Central Education Agency) and administered by the laws applicable to common school districts under the jurisdiction of his county.

(b) Any person who desires to teach in a public school of a district as above designated shall present his certificate for record before his contract with the board of trustees of the district shall become binding.

(c) Any person who desires to teach in a public school of an independent school district having 150 or more scholastics or in an independent school district having less than 150 scholastics but which has elected not to be governed by laws applicable to common school districts shall present his certificate for filing with the employing district before his contract with the board of trustees of the district shall become binding.

(d) A teacher or superintendent who does not hold a valid certificate or emergency permit shall not be paid for teaching or work done before the effective date of issuance of a valid certificate or permit.

Originally § 13.15.

§ 13.046. Cancellation of Certificates

(a) Any teacher's certificate issued under the provisions of this code or under any previous statute relating to the certification of teachers may be cancelled by the state commissioner of education under any one or more of the following circumstances:

(1) on satisfactory evidence that the holder is conducting his school or his teaching activities in violation of the laws of this state;

(2) on satisfactory evidence that the holder is a person unworthy to instruct the youth of this state; or

(3) on complaint made by the board of trustees that the holder of a certificate after entering into a written contract with the board of trustees of the district has without good cause and without the consent of the trustees abandoned the contract.

(b) Before any certificate shall be cancelled the holder shall be notified and shall have an opportunity to be heard. Any person whose certificate is cancelled by the state commissioner of education shall have the right of appeal to the State Board of Education.

(c) The state commissioner of education shall have the authority, upon the presentation of satisfactory evidence, to reinstate any teacher's certificate cancelled under the provisions of this section. On a refusal of the commissioner so to reinstate a certificate, the applicant shall have the right of appeal to the State Board of Education.

Originally § 13.16.

[Sections 13.047 to 13.100 reserved for expansion]

SUBCHAPTER C. TEACHERS' EMPLOYMENT CONTRACTS

§ 13.101. Probationary or Continuing Contract

Each teacher hereafter employed by any school district in this state shall be employed under, and shall receive from such district, a contract that is either a "probationary contract" or a "continuing contract" in accordance with the provisions of this subchapter if the school board chooses to offer such teacher a "probationary contract" or a "continuing contract." All such contracts shall be in writing, in such form as may be promulgated by or approved by the commissioner of education, and shall embody the terms and conditions of employment hereinafter set forth, and such other provisions not inconsistent with this subchapter as may be appropriate.

Originally § 21.201.

§ 13.102. Probationary Contract

Any person who is employed as a teacher by any school district for the first time, or who has not been employed by such district for three consecutive school years subsequent to August 28, 1967, shall be employed under a "probationary contract," which shall be for a fixed term as therein stated; provided, that no such contract shall be for a term exceeding three school years beginning on September 1 next ensuing from the making of such contract; and provided further that no such contract shall be made which extends the probationary contract period beyond the end of the third consecutive school year of such teacher's employment by the school district, unless the board of trustees determines and recites that it is in doubt whether the particular teacher should be given a continuing contract, in which event a probationary contract may be made with such teacher for a term ending with the fourth consecutive school year of such teacher's employment with the school district, at which time the employment of such teacher by such school district shall be terminated, or such teacher shall be employed under a continuing contract as hereinafter provided.

Originally § 21.202.

§ 13.103. Probationary Contract: Termination

The board of trustees of any school district may terminate the employment of any teacher holding a probationary contract at the end of the contract period, if in their judgment the best interests of the school district will be served thereby; provided, that notice of intention to terminate the employment shall be given by the board of trustees to the teacher on or before April 1, preceding the end of the employment term fixed in the contract. In event of failure to give such notice of intention to terminate within the time above specified, the board of trustees shall thereby elect to employ such probationary teacher in the same capacity, and under probationary contract status for the succeeding school year if the teacher has been employed by such district for less

than three successive school years, or in a continuing contract position if such teacher has been employed during three consecutive school years.

Originally § 21.203.

§ 13.104. Hearing

In event a teacher holding a probationary contract is notified of the intention of the board of trustees to terminate his employment at the end of his current contract period, he shall have a right upon written request to a hearing before the board of trustees, and at such hearing, the teacher shall be given the reasons for termination of his employment. After such hearing, the board of trustees may confirm or revoke its previous action of termination; but in any event, the decision of the board of trustees shall be final and non-appealable.

Originally § 21.204.

§ 13.105. Probationary Contract: Exception

The requirement to serve a probationary period shall not apply to any teacher who previously completed a probationary period under a contract with the school district where employed before September 1, 1967, and who was then considered to be on a permanent contract status as defined by the school district.

Originally § 21.205.

§ 13.106. Continuing Contract

Any teacher employed by a school district who is performing his third, or where permitted fourth, consecutive year of service with the district under probationary contract, and who is elected to employment by the board of trustees of such district for the succeeding year, shall be notified in writing of his election to continuing contract status with such district, and such teacher shall within 30 days after such notification file with the board of trustees of the employing school district notification in writing of his acceptance of the continuing contract, beginning with the school year following the conclusion of his period of probationary contract employment. Failure of the teacher to accept the contract within such 30 day period shall be considered a refusal on the part of the teacher to accept the contract.

Originally § 21.206.

§ 13.107. Status Under Continuing Contract

Each teacher with whom a continuing contract has been made as herein provided shall be entitled to continue in his position or a position with the school district, at a salary authorized by the board of trustees of said district complying with the minimum salary provisions of the foundation aid law, for future school years without the necessity for annual nomination or reappointment, until such time as the person:

- (1) resigns, or retires under the teacher retirement system;
- (2) is released from employment by the school district at the end of a school year because of necessary reduction of personnel as herein defined;
- (3) is discharged for lawful cause, as defined in Section 13.109 of this code and in accordance with the procedures hereinafter provided;
- (4) is dismissed at the end of a school year for any reason as set out in Section 13.110 of this code and pursuant to the procedures hereinafter provided in such cases; or
- (5) is returned to probationary status, as authorized in Section 13.110 of this code.

Originally § 21.207.

§ 13.108. Administrative Personnel

The board of trustees may grant to a person who has served as superintendent, principal, supervisor, or other person employed in any administrative position for which certification is required, at the completion of his service in such capacity, a continuing contract to serve as a teacher, and the period of service in such other capacity shall be construed as contract service as a teacher within the meaning of this subchapter.

Originally § 21.208.

§ 13.109. Discharge During Year

Any teacher, whether employed under a probationary contract or a continuing contract, may be discharged during the school year for one or more of the following reasons, which shall constitute lawful cause for discharge:

- (1) immorality;
- (2) conviction of any felony or other crime involving moral turpitude;
- (3) drunkenness;
- (4) repeated failure to comply with official directives and established school board policy;
- (5) physical or mental incapacity preventing performance of the contract of employment; and
- (6) repeated and continuing neglect of duties.

Originally § 21.209.

§ 13.110. Release at End of Year

Any teacher employed under a continuing contract may be released at the end of any school year and his employment with the school district terminated at that time, or he may be returned to probationary contract employment for not exceeding the three succeeding school years, upon notice and hearing (if requested) as hereinafter provided, for any reason enumerated in Section 13.109 of this code or for any of the following additional reasons:

- (1) inefficiency or incompetency in performance of duties;
- (2) failure to comply with such reasonable requirements as the board of trustees of the employing school district may prescribe for achieving professional improvement and growth;
- (3) willful failure to pay debts;
- (4) habitual use of addictive drugs or hallucinogens;
- (5) excessive use of alcoholic beverages;
- (6) necessary reduction of personnel by the school district (such reductions shall be made in the reverse order of seniority in the specific teaching fields); or
- (7) for good cause as determined by the local school board, good cause being the failure of a teacher to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts throughout Texas.

Originally § 21.210.

§ 13.111. Notice

(a) Before any teacher shall be discharged during the year for any of the causes mentioned in Section 13.109 of this code, or before any probationary contract teacher shall be dismissed at the end of a school year before the end of the term fixed in his contract, or before any teacher holding a continuing contract shall be dismissed or returned to probationary contract status at the end of a school year for any of the reasons mentioned in Section 13.110 of this code, he shall be notified in writing by the board of trustees or under its direction of the proposed action and of the grounds assigned therefor.

(b) In the event the grounds for the proposed action relate to the inability or failure of the teacher to perform his assigned duties, the action shall be based upon the written recommendation by the superintendent of schools, filed with the board of trustees. Any teacher so discharged or dismissed or returned to probationary contract status shall be entitled, as a matter of right, to a copy of each and every evaluation report, or any other memorandum in writing which has been made touching or concerning the fitness or conduct of such teacher, by requesting in writing a copy of the same.

Originally § 21.211.

§ 13.112. Hearing

(a) If, upon written notification of the proposed action, the teacher desires to contest the same, he shall notify the board of trustees in writing within 10 days after the date of receipt by him of the official notice above prescribed, of his desire to be heard, and he shall be given a public hearing if he wishes or if the board of trustees determines that a public hearing is necessary in the public interest.

(b) Upon any charges based upon grounds of inefficiency, or inability or failure of the teacher to perform his assigned duties, the board of trustees may in its discretion establish a committee of classroom teachers and administrators, and the teacher may request a hearing before this committee prior to hearing of the matter by the board of trustees.

(c) Within 10 days after request for hearing made by the teacher, the board of trustees shall fix a time and place of hearing, which shall be held before the proposed action shall be effective. Such hearing shall be public unless the teacher requests in writing that it be private.

(d) At such hearing, the teacher may employ counsel, if desired, and shall have the right to hear the evidence upon which the charges are based, to cross-examine all adverse witnesses, and to present evidence in opposition thereto, or in extenuation.

Originally § 21.212.

§ 13.113. Suspension Without Pay

If the proposed action be discharge of the teacher for any of the reasons set forth in Section 13.109 of this code, the teacher may be suspended without pay by order of the board of trustees, or by the superintendent of schools if such power has been delegated to him by express regulation previously adopted by the board of trustees, but in such event the hearing shall not be delayed for more than 15 days after request for hearing, unless by written consent of the teacher.

Originally § 21.213.

§ 13.114. Decision of Board

If the teacher upon notification of any such proposed action fails to request a hearing within 10 days thereafter, or after a hearing as hereinabove provided, the board of trustees shall take such action and shall enter such order as it deems lawful and appropriate. If the teacher is reinstated, he shall immediately be paid any compensation withheld during any period of suspension without pay. No order adverse to the teacher shall be entered except upon majority vote of the full membership of the board of trustees.

Originally § 21.214.

§ 13.115. Appeals

(a) If the board of trustees shall order the teacher discharged during the school year under Section 13.109 of this code, the teacher shall have the right to appeal such action to the commissioner of education, for review by him, provided notice of such appeal is filed with the board of trustees and a copy thereof mailed to the commissioner within 15 days

after written notice of the action taken by the board of trustees shall be given to the teacher; or, the teacher may challenge the legality of such action by suit brought in the district court of any county in which such school district lies within 30 days after such notice of the action taken by the board of trustees has been given to the teacher.

(b) If the board of trustees shall order the continuing contract status of any teacher holding such a contract abrogated at the end of any school year and such teacher returned to probationary contract status, or if the board of trustees shall order that any teacher holding a continuing contract be dismissed at the end of the school year, or that any teacher holding a probationary contract shall be dismissed at the end of a school year before the end of the employment period covered by such probationary contract, the teacher affected by such order, after filing notice of appeal with the board of trustees, may appeal to the commissioner of education by mailing a copy of the notice of appeal to the commissioner within 15 days after written notice of the action taken by the board of trustees has been given to the teacher.

(c) Either party to an appeal to the commissioner shall have the right to appeal from his decision to the State Board of Education, according to the procedures prescribed by the State Board of Education. The decision of the State Board of Education shall be final on all questions of fact, but shall be subject to appeal to the district court of any county in which such school district or portion thereof lies, if the decision of the state board:

- (1) is not supported in the record by substantial evidence;
- (2) is arbitrary or capricious; or
- (3) is in error in the application of existing law to the facts of the case.

(d) Trial procedure in the district court shall be the same as that accorded other civil cases on the docket of said court, with the decision of the trial court to be subject to the same rights of appeal under the Texas Rules of Civil Procedure as is accorded other civil cases so tried.

Originally § 21.215.

§ 13.116. Resignations

(a) Any teacher holding a continuing contract with any school district, or holding a probationary contract with an unexpired term continuing through the ensuing school year, may relinquish the position and leave the employment of the district at the end of any school year without penalty by written resignation addressed to and filed with the board of trustees prior to August 1, preceding the end of the school year that the resignation is to be effective. A written resignation mailed by prepaid certified or registered mail to the superintendent of schools of the district at the post office address of the district shall be considered filed at time of mailing.

(b) Any teacher holding a continuing contract or such unfulfilled probationary contract may resign, with the consent of the board of trustees of the employing school district, at any other time mutually agreeable.

(c) A teacher holding a probationary contract or a continuing contract obligating the employing district to employ such person for the ensuing school year, who fails to resign within the time and in the manner allowed under Subsections (a) and (b) of this section, and who fails to perform such contract, shall be ineligible for employment by any other Texas school district during the ensuing school year covered by such contract, and his teaching certificate shall be suspended for that school year only.

Originally § 21.216.

[Sections 13.117 to 13.200 reserved for expansion]

SUBCHAPTER D. TEACHERS' PROFESSIONAL PRACTICES**§ 13.201. Responsibilities of the Teaching Profession**

Teaching is hereby declared to be and is recognized as a profession. The members of such profession shall accept responsibilities in development and promotion of high standards of ethics, conduct, and professional performance and practices of persons engaged in the practice of such profession in this state.

§ 13.202. Definitions

In this subchapter:

(1) "Teacher" means a superintendent, principal, supervisor, classroom teacher, counselor, or other professional employee who is required to hold a valid certificate or teaching permit.

(2) "Commission" means the Teachers' Professional Practices Commission established by this subchapter.

(3) "Code of ethics and standard practices" means the rules, regulations and standards of conduct which have been adopted and promulgated by the commission pursuant to Section 13.210 of this code.

§ 13.203. Professional Practices Commission

(a) There is hereby created a Teachers' Professional Practices Commission consisting of 15 members selected from the several professional groups, as follows:

- 3 elementary classroom teachers
- 3 secondary classroom teachers
- 2 counselors
- 1 elementary principal
- 1 secondary principal
- 1 supervisor
- 1 superintendent (1,000 or more teachers)
- 1 superintendent (fewer than 1,000 teachers)
- 1 junior college teacher
- 1 senior college teacher (engaged in teacher education)

§ 13.204. Qualifications of Members

To be eligible for membership on the commission, a person must be actively engaged in teaching, fully certified for the position he holds, and must have at least five years' teaching experience in Texas, including the two years immediately preceding nomination and appointment.

§ 13.205. Appointment

The members of the commission shall be appointed by the governor, subject to confirmation by the senate. The governor shall request appropriate statewide professional organizations of teachers and/or school administrators to submit a list of three qualified nominees for vacancies within their respective professional groups on the commission; such nominations shall be advisory.

§ 13.206. Terms of Office

One-third of the members of the commission first appointed shall be selected to serve for a term of one year; one-third to serve for a term of two years; and the remaining one-third for a term of three years; and members appointed for succeeding terms shall serve for terms of three years. No person shall serve for more than two consecutive terms as a member of the commission.

§ 13.207. Expenses

Members of the commission shall serve without pay, but shall be reimbursed for their actual and reasonable traveling expenses in attendance on commission meetings, and in attending meetings of committees of such commission.

§ 13.208. Officers; Meetings; Rules

The commission shall annually select a chairman, vice chairman, and secretary. The commission shall meet not less than three times each year in Austin at a place, time, and hour determined by the commission (at least 10 days' notice in writing by chairman shall constitute proper notice). A majority shall constitute a quorum, and a majority of such quorum shall have authority to act upon any matter properly before the commission. The commission shall adopt its own rules of order and procedure not inconsistent with this subchapter and shall hold meetings pursuant to the provisions of this subchapter.

§ 13.209. Privileged Status of Members

Members of the commission shall be privileged in their utterances while acting in good faith in the course of their duties.

§ 13.210. Adoption of Code of Ethics and Standard Practices

(a) After public hearings at which associations and individuals representing the teaching profession and other interested persons shall have full opportunity to submit and request adoption of all or part of the provisions of unofficial codes of ethics that have been adopted by state and national associations of members of the teaching profession, and to support, oppose, or request amendments to proposals, the commission shall develop and adopt a "code of ethics and standard practices" which shall regulate and govern the conduct of members of the profession.

(b) The code of ethics and standard practices adopted by the commission shall include standards of professional teaching practices and professional performance, and standards of ethical conduct of members of the teaching profession toward other members of the profession, parents, students, and the community.

(c) The professional standards developed by the commission shall be submitted by the Texas Education Agency to all active certificated professional personnel in a referendum to determine approval or disapproval of each individual standard and the commission shall have available the results of the referendum and give them consideration before finally adopting the standards.

(d) The commission shall likewise have power to revise or adopt amendments to the code of ethics and standard practices.

(e) The code of ethics and standard practices originally adopted by the commission, and in like manner any amendment thereto or revision thereof, shall become effective on the first day of September following the expiration of 90 days after the full text of the professional standards so adopted by the commission or the amendment or revision so adopted shall have been filed with the Commissioner of Education of the State of Texas. No professional standards disapproved in the referendum vote shall be adopted.

(f) It shall be the duty of the commissioner of education on request of any member of the profession, licensed in this state, to furnish him a copy of the code of ethics and standard practices, together with amendments then in effect.

§ 13.211. Unprofessional Practice

A violation of any rule or provision of the code of ethics and standard practices adopted in conformity with this subchapter shall be deemed to be "unprofessional practice," which shall constitute grounds for suspension or revocation of the teaching certificate of the member, which grounds shall be additional to those specified in Section 13.046 of this code; or the member may be warned or reprimanded for such violation, if in the judgment of the commissioner of education the violation is not of sufficient gravity to require suspension or revocation of the teaching certificate.

§ 13.212. Advisory Function of Commission

The commission shall act in an advisory capacity to the state commissioner of education and to the State Board of Education in matters of interpretation and enforcement of the code of ethics and standard practices.

§ 13.213. Complaint, Notice, Hearing, Recommendations

(a) The commission shall be authorized to receive written complaints from any certified teacher of alleged violation by any member of the profession of any rule or provision of the code of ethics and standard practices, and may hear the matter en banc, or may refer the matter to a committee of the commission, composed of three of its members, for hearing, as it may order.

(b) Upon receipt of a complaint, the commission shall give to the member against whom the complaint is made at least 15 days' notice of the nature of the complaint, and the time and place at which the commission, or a panel thereof, will hear the matter, such notice to be given by registered mail addressed to the member.

(c) At any hearing before the commission, or before a panel of the commission, the member complained of shall be entitled to produce witnesses in his behalf, and shall have a right to be represented by counsel. After hearing (which shall be private unless the party affected requests a public hearing), the commission, or the hearing panel, shall make findings and recommendations whether the complaint shall be dismissed or whether the complaint shall be heard by the commissioner of education.

(d) The commission or panel thereof hearing the matter shall file its recommendations with the commissioner of education and shall also file with him a transcript of any evidence presented before it.

§ 13.214. Action of Commissioner on Complaints

(a) In cases wherein the commission, or the panel thereof hearing the matter, has recommended dismissal of the complaint, the commissioner of education may dismiss the complaint without further hearing. No appeal shall lie from the action of the commissioner of education in dismissing a complaint hereunder.

(b) In cases where the commission, or the panel thereof hearing the matter, shall recommend suspension or revocation of the certificate of any member, the commissioner of education may dismiss the complaint on the basis of the record certified to him, or may set the matter for hearing and disposition by the commissioner of education; and from his final decision in the matter, after hearing, appeal shall lie to the State Board of Education. The party charged by the complaint may appeal the decision of the State Board of Education to the district court of the county of his residence. The trial on appeal in the district court shall be conducted de novo.

(c) Nothing in this section contained is intended to bind the commissioner of education to adopt the findings and recommendations of the commission, or any panel thereof.

(d) The commissioner of education shall have power to adopt rules of procedure (subject to approval of the State Board of Education) for the conduct of hearings before him pursuant to this subchapter.

§ 13.215. Appeals

In all appeals prosecuted in any of the courts of this state pursuant to the provisions of this subchapter, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no interven-

ing administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this subchapter.

§ 13.216. Strikes, Etc.

Any certified teacher who violates the provisions of Chapter 135, Acts of the 50th Legislature, 1947 (Article 5154c, Vernon's Texas Civil Statutes), shall be suspended by the commissioner of education.

§ 13.217. Right to Join or Not to Join Professional Association

Nothing in this subchapter shall abridge the right of any certified teacher to join any professional association or organization, or to refuse to join any professional association or organization.

§ 13.218. Local Authority

Nothing in this subchapter shall abridge the right of any duly elected board of trustees of any independent school district to hire or dismiss any teacher, nor shall a board be prohibited from establishing any standard of conduct to be expected of any teacher. Provided, however, the superintendent or other person designated by the school board shall notify the commission of any teacher dismissed for the violation of the code of ethics and standard practices established by a school board.

[Sections 13.219 to 13.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

§ 13.901. Employment Consultation With Teachers

The board of trustees of each independent school district, rural high school district, and common school district, and their administrative personnel, may consult with teachers with respect to matters of educational policy and conditions of employment; and such boards of trustees may adopt and make reasonable rules, regulations and agreements to provide for such consultation. This section shall not limit or affect the power of said trustees to manage and govern said schools.

The provisions of § 13.901 were transferred from former § 21.905 by Acts 1971, 62nd Leg., p. 1483, ch. 405, §§ 2, 54(1).

§ 13.902. Planning and Preparation Time

(a) Public schools shall be taught for not less than seven hours each day including intermissions and recesses. Each teacher actively engaged in the instruction of children shall have at least one period of not less than 45 minutes within the scheduled school day for planning and preparation.

(b) The implementation of the provisions of this section shall not result in a lengthened school day.

§ 13.903. Uniform Retirement Age

The board of trustees of each public school district in Texas shall have full authority to establish a uniform retirement age for its professional and supportive personnel and notwithstanding any provision to the contrary. No district shall be required to retain any person in its employment after he reaches such prescribed age.

§ 13.904. Minimum Sick Leave Program

(a) A state minimum sick leave program consisting of five days per year sick leave with no limit on accumulation and transferable among districts shall be provided for every teacher regularly employed in the public free schools of Texas. Local school districts may provide additional sick leave beyond this minimum.

(b) Each district shall file, immediately after the regular term of the school year has been completed, a report with the Central Education Agen-

cy setting out the total number of days of sick leave utilized by teachers and other professional personnel, excepting excess units, approved and listed for foundation school program benefits. The Central Education Agency, each current scholastic year, shall calculate the cost of providing approved sick leave for each person listed at the rate of \$15 per day and shall reimburse the participating local district on the basis of the percentage relationship between the state and the district in financing the cost of the foundation school program multiplied by the total approved sick leave expenditure for the year. Said reimbursement shall be paid from the Foundation Program Fund and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for foundation program purposes.

(c) Each district's local board of education shall establish a sick leave plan, and shall administer the program to assure compliance with the intent of the law that leave shall be approved only for illness of the teacher or because of a death in his or her immediate family.

(d) The Central Education Agency shall prescribe rules, regulations, and forms necessary to the administration of this minimum sick leave program and the auditing of the state allocations made therefor as part of the foundation school program.

CHAPTER 14. SCHOLASTIC CENSUS

§ 14.02. Census

A census of all children of scholastic age shall be taken by each school district of the state in January, 1970. The State Board of Education shall develop standards, regulations, and procedures for conducting a systematic census of all children of scholastic age resident in the several school districts of the state each five years beginning with 1970. Such rules and standards, regulations, and procedures shall provide for the appointment of a census trustee in each district of the state on the first day of each November or as soon thereafter as is practicable in the year immediately preceding the year in which the census is to be taken. The census trustee, between the first day of January and the first day of February after his appointment, shall take a census of all children of scholastic age who are residents in the school district on said first day of February.

Amended by Acts 1971, 62nd Leg., p. 1489, ch. 405, § 15, eff. May 26, 1971.

§§ 14.03 to 14.06. Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, § 54(1), eff. May 26, 1971

Section 14.03 provided for taking of the census and duties of the census trustee.

Section 14.05 related to the taking of a supplemental census.

Section 14.04 prescribed certain further duties of the census trustee.

Section 14.06 provided census taking procedures in county-line districts

§ 14.07. Duty of Superintendent

The superintendent of schools in each school district of the state shall prepare an abstract copy of the census under oath on a form prescribed and provided by the Central Education Agency showing such data, statistical and informational, concerning the census taken as may be requested by the agency. He shall, on or before May 1 following taking of the census, forward to the commissioner of education such abstract.

Amended by Acts 1971, 62nd Leg., p. 1489, ch. 405, § 16, eff. May 26, 1971.

**CHAPTER 15. STATE FUNDS FOR THE SUPPORT
OF PUBLIC SCHOOLS**

§ 15.01. Composition of the Public School Funds

* * * * *

(c) The term "scholastic population" in Subsection (b) of this section, and when and wherever found in the several laws governing the apportionment, distribution, and transfer of the state available school fund, is hereby defined to mean and include all pupils within scholastic age enrolled in average daily attendance the next preceding scholastic year in the public elementary and high school grades of school districts within or under the jurisdiction of a county of this state. The basis provided herein for the apportionment, distribution, and transfers of the state available school fund shall be applicable to such fund to be apportioned for the year beginning September 1, 1969, and annually thereafter.

Subsec. (c) added by Acts 1971, 62nd Leg., p. 1489, ch. 405, § 17, eff. May 26, 1971.

§ 15.02. Investment of Permanent School Fund

(a) In compliance with provisions of this section, the State Board of Education is authorized and empowered to invest the permanent school fund in the types of securities, which must be carefully examined by the State Board of Education and be found to be safe and proper investments for the fund as specified below:

(1) securities, bonds, or other obligations issued, insured, or guaranteed in any manner by the United States Government or any of its agencies; and in bonds issued by the State of Texas;

(2) obligations and pledges of The University of Texas;

(3) corporate bonds of United States corporations of at least "A" rating;

(4) bonds issued, assumed, or guaranteed by the Inter-American Development Bank, the International Bank of Reconstruction and Development (the World Bank), and the Asian Development Bank;

(5) bonds of counties, school districts, incorporated cities or towns, road precincts, drainage, irrigation, navigation, and levee districts in Texas, under the following rules and regulations:

(A) such securities, prior to their purchase, must have been diligently investigated by the attorney general of Texas both as to their form and as to their legal compliance with applicable laws;

(B) the attorney general's certificate of validity procured by the party offering such bonds, obligations, or pledges must accompany these securities when they are submitted for registration to the state comptroller, who must preserve the certificates;

(C) such securities shall be purchased under the provisions of Subsection (b) of this section;

(D) these public securities, if purchased, and when certified and registered as specified above, shall be incontestable unless issued fraudulently or in violation of a constitutional limitation, and the certificates of the attorney general shall be prima facie evidence of the validity of the bonds and coupons thereto; and

(E) after the issuing political subdivision of Texas has received the proceeds from the sales of such public securities, the issuing agency shall be estopped to deny their validity, and the same shall be held to be valid and binding obligations;

(6) preferred stocks and common stocks as the State Board of Education may deem to be proper investments for the permanent school fund, under the following rules and regulations:

(A) in making all such investments the State Board of Education shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital;

(B) stocks eligible for purchase are restricted to stocks of companies incorporated within the United States which have paid dividends for five consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors;

(C) not more than one percent of the permanent school fund may be invested in stock issued by one corporation nor shall more than five percent of the voting stock of any one corporation be owned;

(D) at the discretion of the State Board of Education, corporate securities of the permanent school fund may be sold and the proceeds reinvested for the fund under the terms of this code; and

(7) notwithstanding any other law or provisions in this code, first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States,¹ as amended from time to time, or in any other first lien real estate mortgage securities guaranteed in whole or in part by the United States Government or any agency thereof.

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 1490, ch. 405, § 18, eff. May 26, 1971; Subsec. (a) amended by Acts 1971, 62nd Leg., p. 1668, ch. 472, § 3, eff. Aug. 30, 1971.

¹ 12 U.S.C.A. § 1701 et seq.

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CHAPTER 16. FOUNDATION SCHOOL PROGRAM

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SUBCHAPTER A. GENERAL PROVISIONS**§ 16.04. Program Eligibility**

(a) Beginning with the school year 1977-1978, any child in this state over 5 and under 21 years of age at the beginning of the school year, who has not yet graduated from high school, shall be entitled to the benefits of the Basic Foundation School Program for the ensuing school year. Such eligible child shall be admitted tuition-free to the public schools of the district in which he, his parents or legal guardian, resides. Provided, however, that for the school years 1969-1970 through 1976-1977, the qualifying age limits at the beginning of each school year shall be in accord with the following table:

**QUALIFYING AGE LIMITS AS OF BEGINNING
OF SCHOOL YEAR:**

	1969-1970 through 1972-1973	1973-1974 and 1974-1975	1975-1976 and 1976-1977
Beginning Age:			
Years	6	5	5
Months	0	7	4
Highest Age:			
Years	20	20	20

(b) Notwithstanding the provisions of Subsection (a) of this section, the program of preschool education shall be extended first to "educationally handicapped" children as preparation for the regular school program in which such children will participate in subsequent years. For purposes of this section, a child is "educationally handicapped" if he cannot speak, read, and comprehend the English language or if he is from a family whose income, according to standards promulgated by the State Board of Education, is at or below a subsistence level. The program shall include an appreciation for the cultural and familial traditions of the child's parents and also an awareness and appreciation of the broader world in which the child must live; assist the child in developing appropriate language skills; prepare the child to participate in the world of his peers and the broader cultural stream into which he will progressively move as he matures; begin the development of the mental and physical skills and cooperative attitudes needed for adequate performance in a school setting; and begin the development of his unique character and personality traits.

(c) The benefits of this program for preschool education shall be extended on a first priority basis to "educationally handicapped" children below existing age limits as shown in the following table:

QUALIFYING AGE LIMITS AS OF BEGINNING OF SCHOOL YEAR:

	1970-1971	1971-1972	1972-1973 and Thereafter
Beginning Age:			
Years	5	5	5
Months	5	2	0
Highest Age:			
Years	21	21	21

(d) A scholastic is a student in average daily attendance within the age limits prescribed in this section.

Added by Acts 1971, 62nd Leg., p. 1507, ch. 405, § 29, eff. May 26, 1971.

SUBCHAPTER B. CLASSIFICATION OF PROFESSIONAL POSITIONS AND SERVICES

§ 16.08. Duties of Public School Principals.

Public school principals, who shall hold valid administrative certificates, shall be responsible for:

(a) assuming administrative responsibility and instructional leadership, under the supervision of the superintendent, for discipline, and the planning, operation, supervision, and evaluation of the educational program of the attendance area in which he is assigned;

(b) submitting recommendations to the superintendent concerning assignment, evaluation, promotion, and dismissal of all personnel assigned to the attendance center; and

(c) performing any other duties assigned by the superintendent pursuant to school board policy.

(d) Nothing herein shall be construed as a limitation on the powers, responsibilities and obligations of the school board as now prescribed by law.

Added by Acts 1971, 62nd Leg., p. 81, ch. 44, § 1, eff. April 1, 1971.

SUBCHAPTER C. PROFESSIONAL UNITS

§ 16.11. Professional Units—Allotment—General Rules

* * * * *

(d) All personnel allotted under the Foundation School Program shall be allocated to school districts on the basis of current average daily attendance without regard to race, creed, or color of students.

(e) In addition to the method of allocating professional units under the Minimum Foundation Program on the basis of current average daily attendance, any school district may choose to utilize the preceding year's average daily attendance to establish the basis for allocation of professional units in compliance with the formulas in this chapter.

Subsecs. (d), (e) amended by Acts 1971, 62nd Leg., p. 1510, ch. 405, § 34, eff. May 26, 1971.

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§ 16.13. Classroom Teacher Units

Classroom teacher professional units for each school district shall be determined, and teachers allotted in the following manner:

(1) to school districts having fewer than 15 pupils in average daily attendance, no classroom teacher unit, except that in cases of extreme hardship, such districts may be allotted on a year-to-year basis one classroom teacher unit if so recommended by the county school board and approved by the state commissioner of education;

(2) to school districts having from 15 to 25 pupils, inclusive, in average daily attendance, one classroom teacher unit;

(3) to school districts having from 26 to 109 pupils, inclusive, in average daily attendance, two classroom teacher units for the first 26 pupils and one classroom teacher unit for each additional 21 pupils (no credit to be given for fractions);

(4) to school districts having from 110 to 156 pupils, inclusive, in average daily attendance, six classroom teacher units;

(5) to school districts having from 157 to 444 pupils, inclusive, in average daily attendance, one classroom teacher unit for each 24 pupils, or fractional part thereof in excess of one-half;

(6) to school districts having from 445 pupils to 487 pupils, inclusive, in average daily attendance, 19 classroom teacher units; and

(7) to school districts having from 488 or more pupils in average daily attendance, one classroom teacher unit for each 25 pupils, or fractional part thereof in excess of one-half."

Amended by Acts 1971, 62nd Leg., p. 1506, ch. 405, § 27, eff. May 26, 1971.

§ 16.14. Vocational Teacher Units

(a) Vocational teacher professional units, vocational supervisor professional units, and vocational counselor professional units for each school district shall be determined and allotted as prescribed by this section.

(b) Each school district having a four-year accredited high school shall be eligible, under rules and regulations of the State Board of Education, for two vocational teacher units to teach one or more vocational programs provided there is a need thereof, and provided the programs shall have been approved by the commissioner of education.

(c) Additional vocational teacher units for four-year accredited high schools may be allotted according to needs determined by a survey of the community and approved by the commissioner of education.

(d) A district having an accredited high school which qualifies, according to the rules and regulations of the State Board of Education, for less than one vocational teacher unit, may be allotted by the commissioner of education a fractional part of a vocational teacher professional unit. A fractional part of a vocational teacher professional unit shall entitle a district to employ a part-time vocational teacher or assign a classroom teacher to serve as part-time vocational teacher.

(e) Each school district having a four-year accredited high school shall be eligible, under rules and regulations as approved by the State Board of Education, for such specialized vocational supervisor units and vocational counselor units as there is a need thereof, and in the number determined by application of formulas adopted by the State Board of Education and subject to approval by the commissioner of education.

(f) Vocational professional unit allotments, except classroom teachers who also served as part-time vocational teachers, shall be made in addition to other professional unit allotments. Vocational teacher units shall be included in determining the total current operating cost for each district. In addition to this allowance, there shall be an additional allocation of \$400 for each vocational teacher unit.

(g) School districts which, because of limited enrollments, tax resources, or facilities are unable to offer appropriate vocational education in all occupational areas needed may enter into contracts with post-secondary public institutions, as defined by the State Board of Education, to provide for such appropriate vocational education instruction provided the instructors and instructional materials and equipment utilized meet secondary school program requirements.

(h) Such contracts shall be executed pursuant to rules and regulations of the State Board for Vocational Education (State Board of Education) and the cost to the state shall not exceed the cost that would result if said programs were operated by the respective school districts entering into such contracts.

Amended by Acts 1971, 62nd Leg., p. 1511, ch. 405, § 35, eff. May 26, 1971.

§ 16.16. Comprehensive Special Education Program for Exceptional Children

(a) It is the intention of this section to provide for a comprehensive special education program for exceptional children in Texas.

(b) As used in this section:

(1) "Exceptional children" means children between the ages of 3 and 21, inclusive, with educational handicaps (physical, retarded, emotionally disturbed, and/or children with language and/or learning disabilities) as hereinafter more specifically defined; and children leaving and not attending public school for a time because of pregnancy—which disabilities render regular services and classes of the public schools inconsistent with their educational needs.

(2) "Physically handicapped children" means children of educable mind whose body functions or members are so impaired from any cause that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

(3) "Mentally retarded children" means children whose mental capacity is such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(4) "Emotionally disturbed children" means children whose emotional condition is medically and/or psychologically determined to be such that they cannot be adequately and safely educated in the

regular classes of the public schools without the provision of special services.

(5) "Language and/or learning disabled children" means children who are so deficient in the acquisition of language and/or learning skills including, but not limited to, the ability to reason, think, speak, read, write, spell, or to make mathematical calculations, as identified by educational and/or psychological and/or medical diagnosis that they must be provided special services for educational progress. The term "language and/or learning disabled children" shall also apply to children diagnosed as having specific developmental dyslexia.

(6) "Special services" required for the instruction of or program for exceptional children means special teaching in the public school curriculum within and/or without the regular classroom; corrective teaching, such as lipreading, speech correction, sight conservation, corrective health habits; transportation, special seats, books, instructional media and supplies; professional counseling with students and parents; supervision of professional services and pupil evaluation services; established teaching techniques for children with language and/or learning disabilities.

(c) Under rules, regulations and/or formulae adopted by the State Board of Education subject to the provisions of this section, exceptional children teacher units, in addition to other professional and paraprofessional unit allotments herein authorized, shall be allotted to any eligible school district in the number determinable thereunder. Exceptional children teacher units for pupils who are both severely physically handicapped and mentally retarded shall be allocated on a separate formula from other type units.

(d) Professional personnel for the operation and maintenance of a program of special education shall be:

- (1) exceptional children teachers;
- (2) special education supervisors;
- (3) special education counselors;

(4) special service teachers, such as itinerant teachers of the homebound and visiting teachers, whose duties may or may not be performed in whole or in part on the campus of any school; and

(5) psychologists and other pupil evaluation specialists. The minimum salary for such specialist to be used in computing salary allotment for purposes of this section shall be established by the commissioner of education.

(e) Paraprofessional personnel for the operation and maintenance of a program of special education shall consist of persons engaged as teacher aides, who may or may not hold a teacher certificate. The qualifications and minimum salary levels of paraprofessional personnel for salary allotment purposes of this section shall be established by the commissioner of education.

(f) Quantitative bases for the allotment of all special education unit personnel under Subsection (c) of this section shall be established by the commissioner of education under rules adopted by the State Board of Education. Any school district, at its expense, may employ any special education personnel in excess of its state allotment, may supplement the minimum salary allotted by the state for any special education personnel, and any district is authorized at local expense to pay for all or part of further or continuing training or education of its special education personnel.

(g) Special education unit personnel may be employed and/or utilized on a full-time, part-time, or upon a consultative basis, or may be allotted by the commissioner of education, pursuant to cooperative districts' agreement, jointly to serve two or more school districts. Two or more school districts may operate jointly their special education program and any school district may contract where feasible with any other

school district for all or any part of the program of special education for the children of either district, under rules and regulations established by the commissioner of education.

(h) To each school district operating an approved special education program there shall also be allotted a special service allowance in an amount to be determined by the commissioner of education for pupil evaluation, special seats, books, instructional media and other supplies required for quality instruction.

(i) To each school district operating an approved special education program, there shall be allotted also a transportation allowance for transporting of children in special education programs who are unable to attend the special education program for exceptional children in public school unless such special transportation is provided. The annual transportation allotment shall be \$150 per exceptional child pupil receiving such transportation. Such allocated transportation funds shall be used only for transportation purposes for children who are enrolled in a program of special education or who are eligible for such enrollment.

(j) The minimum monthly base pay and increments for teaching experience for an exceptional children teacher or a special service teacher conducting a 9, 10, 11, or 12 months special education program approved by the commissioner of education shall be the same as that of a classroom teacher as provided in the Foundation Program Act; provided that special education teachers shall have qualifications approved by the commissioner of education. The annual salary of special education teachers shall be the monthly base salary, plus increments, multiplied by 9, 10, 11, or 12, as applicable.

(k) The minimum monthly base pay and increments for teaching experience for special education counselors and supervisors engaged in a 9, 10, 11, or 12 months special education program approved by the commissioner of education shall be the same as that of a counselor and/or supervisor as provided in the Foundation Program Act; provided that such counselors and supervisors shall have qualifications approved by the commissioner of education. The annual salary of special education counselors and supervisors shall be the monthly base salary, plus increments, multiplied by 9, 10, 11, or 12, as applicable.

(l) The salary costs of special education teacher units, other professional and paraprofessional units authorized in Subsections (c), (d), and (e) of this section, operating costs as provided in Subsection (h), and transportation costs as provided in Subsection (i), computed as other costs of the Foundation School Program Act for local fund assignment purposes thereof, shall be paid from the Foundation Program School Fund. Provided further, that any school district may supplement any part of the comprehensive special education program it operates or participates in with funds or sources available to it from local source, public and/or private.

(m) Under rules and regulations of the State Board of Education, eligible school districts may contract with nonprofit community mental health and/or mental retardation centers, public or private, or any other nonprofit organization, institution, or agency approved by the State Board of Education, for the provision of services to exceptional children as defined by this section, who reside with their parents or guardians.

(n) Special education program units shall be included in determining the total current operating cost for each district.

(o) The Foundation School Fund Budget Committee shall compute all amounts required for comprehensive special education program purposes to be included in the amounts to be placed in the Foundation School Fund for the ensuing biennium at the same time that certifications are made for other Foundation School Fund purposes.

Amended by Acts 1971, 62nd Leg., p. 1491, ch. 405, § 19, eff. May 26, 1971.

§ 16.20. Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, § 54(1), eff. May 26, 1971

Section 16.20 provided for the determination of professional units allotment on a combined average daily attendance.

§ 16.21. Allocation of Units in Certain Districts

Notwithstanding the provisions of Sections 16.11 and 16.13 of this code, the number of professional units allocated to school districts which operate and have operated for at least three consecutive years a four-year accredited high school and have an average daily attendance range between 84 and 156 pupils for the immediate preceding year shall be based on the following formula: a school district having 84 to 106 pupils, inclusive, in average daily attendance shall be allotted six classroom teacher units and a superintendent unit. A school district having 107 to 156 pupils, inclusive, shall be allotted seven classroom teacher units and a superintendent unit.

Amended by Acts 1971, 62nd Leg., p. 1512, ch. 405, § 36, eff. May 26, 1971.

§ 16.22. Administration-Office Assignments

For utilization of classroom teacher unit allotment purposes, the Central Education Agency shall regard and recognize as classroom teacher(s) within the definition of "teacher" as described in the Texas State Public Education Compensation Plan, teacher certificated personnel employed or assigned by any school district to teach, as classroom teachers, and/or to perform administration-office assignments or tasks. (S.B.No. 990, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3362, ch. 1024, Art. 2, § 44, eff. Sept. 1, 1971.

SUBCHAPTER D. SALARIES

Subchapter D relating to Salaries, originally consisting of §§ 16.31 to 16.40, was amended by Acts 1971, 62nd Leg., p. 1449, ch. 405, § 26, effective May 26, 1971, to consist of §§ 16.301 to 16.316 relating to the same subject.

§ 16.301. Minimum Salary Rules

(a) The board of trustees of each and every school district in the State of Texas shall pay their teachers upon a salary schedule providing a minimum beginning base salary, plus increments above the minimum for additional experience in teaching as hereinafter prescribed. The salaries fixed herein shall be regarded as minimum salaries only and each district may supplement such salaries.

(b) All teachers and administrators shall have a valid Texas certificate. Salary increments for college training shall be based upon training received at a college recognized by the commissioner of education for the preparation of teachers.

(c) Payment of at least the minimum salary schedule provided herein shall be a condition precedent: (1) to a school's participation in the Foundation School Fund; and (2) to its name being placed or continued upon the official list of affiliated or accredited schools. The annual salaries as provided herein may be paid in 12 equal payments at the discretion of the local school boards.

(d) The salary of each professional position shall be determined as provided by this subchapter.

§ 16.302. Classroom Teachers: 1969-1970

(a) For the 1969-1970 school year, the annual salary of classroom teachers shall be the monthly base salary, plus increments, multiplied by nine. For the 1970-1971 school year, the annual salary of classroom teachers shall be the monthly base salary plus increments multiplied by 10.

(b) Classroom teachers shall be paid for the school year 1969-1970 on the basis of the following salary schedules:

SALARY SCHEDULE 1969-1970
YEARS OF TEACHING EXPERIENCE

	<u>Salary</u>	<u>0-1</u>	<u>2-3</u>	<u>4-5</u>	<u>6-8</u>	<u>9 or More</u>
Teacher, B.A. Month	600	630	662	695	730	

	<u>Salary</u>	<u>0-3</u>	<u>4-5</u>	<u>6-7</u>	<u>8-10</u>	<u>11-13</u>	<u>14-15</u>	<u>16 or More</u>
Teacher, M.A. Month	660	695	730	767	805	845	866	

(c) The above schedule reduced by \$7 per month at each step shall apply to all teaching positions and special service positions authorized under the Minimum Foundation Program, with the provision that all teaching positions authorized for more than nine months shall receive the monthly salary multiplied by the number of months allowed.

(d) Non-degree teachers shall receive .80 of the monthly salary for B.A. degree teachers multiplied by the number of months allowed for the position in which they are employed.

(e) Salaries for the following positions shall be based on the monthly salaries for teachers with the same experience and degree and shall be computed as indicated below:

(1) Supervisors and counselors shall receive 1.06 of the monthly teacher salary multiplied by 10.

(2) Head teachers shall receive 1.08 of the monthly teacher salary multiplied by 9.

(3) Part-time principals shall receive 1.15 of the monthly teacher salary multiplied by 9½.

(4) Full-time principals shall receive 1.20 of the monthly teacher salary multiplied by 11.

(5) Superintendents in districts with 600 ADA or less shall receive 1.25 of the monthly teacher salary multiplied by 12. Superintendents in districts with 601-5,000 ADA shall receive 1.50 of the monthly teacher salary multiplied by 12. Superintendents in districts with 5,001 or more ADA shall receive 1.75 of the monthly salary multiplied by 12.

§ 16.303. Classroom Teachers: 1970-1971

(a) For the 1970-1971 school year, classroom teachers shall be paid on a monthly basis as provided in the schedule below:

SALARY SCHEDULE 1970-1971
SALARY BY STEPS ABOVE BASE

	<u>Base Salary</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
Teacher, B.A. Month	600	630	662	695	730	767

	<u>Base Salary</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>
Teacher, M.A. Month	660	695	730	767	805	845	866	888

(b) Beginning teachers shall be paid the base salary. Other teachers shall be placed at the monthly salary step immediately above the monthly salary step in the 1969-1970 salary schedule nearest the monthly salary received by the teacher in 1969-1970. The annual salary for each teacher shall be the appropriate monthly salary multiplied by 10. The above schedule shall apply to all teaching positions and special service positions authorized under the Minimum Foundation Program, with the provision that all teaching positions authorized for more than 10 months shall receive the monthly salary multiplied by the number of months allowed.

(c) Non-degree teachers shall receive .80 of the monthly salary for B.A. degree teachers multiplied by the number of months allowed for the position in which they are employed.

(d) Salaries for the following positions shall be based on the monthly salaries for teachers with the same experience and degree and shall be computed as indicated below:

(1) Supervisors and counselors shall receive 1.20 of the monthly teacher salary multiplied by 10.

(2) Head teachers shall receive 1.08 of the monthly teacher salary multiplied by 10.

(3) Part-time principals shall receive 1.15 of the monthly teacher salary multiplied by 10.

(4) Full-time principals shall receive 1.25 of the monthly teacher salary multiplied by 11.

(5) Superintendents in districts with 600 or less ADA shall receive 1.30 of the monthly teacher salary multiplied by 12. Superintendents in districts with 601-5,000 ADA shall receive 1.50 of the monthly teacher salary multiplied by 12. Superintendents in districts with 5,000-50,000 ADA shall receive 1.75 of the monthly teacher salary multiplied by 12. Superintendents in districts with 50,001 or more ADA shall receive 2.25 of the monthly teacher salary multiplied by 12.

§ 16.304. Vocational Teachers, Counselors, Supervisors: 1969-1971

(a) The minimum monthly base pay and increments for teaching experience for a vocational teacher conducting a 9, 10, or 12 months' vocational program approved by the commissioner of education shall be the same as that of a classroom teacher as provided herein; provided that vocational trade and industrial teachers having qualifications approved by the State Board of Vocational Education shall be eligible for the minimum monthly base pay for a classroom teacher who holds a recognized bachelor's degree and a valid teacher's certificate.

(b) The annual salary of vocational teachers shall be the monthly base salary, plus increments, multiplied by 9, 10, or 12, as applicable for 1969-1970, and by 10, 11, or 12 as applicable for 1970-1971.

(c) The minimum salaries hereinabove prescribed for vocational teachers mean total salaries of such teachers to be received for public school instruction, whether they be paid out of state and/or federal funds. None of the provisions of this subchapter shall apply to teachers in distributive adult education.

(d) Expenses where allowable shall be paid from a separate vocational fund. No such expense shall be counted as part of the cost of Minimum Foundation School Program.

(e) The minimum monthly base salary and increments for teaching experience for vocational supervisors and vocational counselors shall be the same as that prescribed in the Foundation Program salary schedule for supervisors and counselors. The annual salary for such vocational supervisors and vocational counselors shall be the monthly base salary plus increments multiplied by 10 in the case of vocational counselors and 11 in the case of vocational supervisors. This subsection expires at the end of the 1970-1971 school year.

§ 16.305. Special Service Teachers: 1969-1971

(a) The minimum monthly base salary and increments for teaching experience for special service teachers shall be the same as those provided herein for classroom teachers. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by 9 for 1969-1970, and by 10 for 1970-1971.

(b) A registered nurse shall be considered, for the purpose of computing salaries, as having a bachelor's degree, and a librarian having a recognized certificate or degree based upon five years of recognized college training therefor shall be considered as having a master's degree.

§ 16.306. Teachers of Exceptional Children: 1969-1971

The minimum monthly base salary and increments for teaching experience for teachers of exceptional children shall be the same as that prescribed in this subchapter for classroom teachers. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by 9 in 1969-1970, and by 10 in 1970-1971, except that in cases where the commissioner of education approves such a unit for more than nine months, the annual salary shall be the monthly base salary, plus increments, multiplied by the number of months approved by the commissioner of education.

§ 16.307. Supervisors and/or Counselors: 1969-1971

The minimum monthly base salary and increments for teaching experience for supervisors and counselors shall be that prescribed in the salary schedules as printed above for 1969-1970 and 1970-1971, respectively.

§ 16.308. Principals: 1969-1971

(a) The minimum monthly base salary and increments for teaching experience for full-time principals shall be in compliance with the provisions set out in the above printed salary schedules for 1969-1970 and 1970-1971, respectively.

(b) The classroom teacher who serves as part-time principal on a campus to which are assigned seven or more classroom teacher units shall receive the salary prescribed for a part-time principal in the 1969-1970 and 1970-1971 schedules for each of these respective years.

(c) The classroom teacher who serves as a part-time principal on a campus to which are assigned three to six classroom teacher units shall receive the salary prescribed for the head teacher in the above-printed salary schedules for 1969-1970 and 1970-1971, respectively. In addition to the allotment of part-time principals as provided in Section 16.18 of this code, districts containing an accredited high school and having fewer than nine classroom teacher units shall be granted one head teacher.

§ 16.309. Superintendents: 1969-1971

The minimum monthly base salary increments for teaching experience for superintendents shall be as prescribed in the salary schedules for 1969-1970 and 1970-1971, respectively.

§ 16.310. 10-Month Year

Beginning with the school year 1970-1971, all classroom teaching positions and all other positions previously authorized for less than 10 months shall be paid at an annual rate calculated on the basis of 10 months' compensation for 10 months' service. Such service shall include the 180-day school term providing instruction for pupils plus not to exceed 10 days of inservice education and preparation for the beginning and ending of the school term.

§ 16.311. Professional Salaries: Total Cost

The total cost of professional salaries of positions allowable for purposes of this subchapter shall be determined by application of the salary

schedule to the total number of approved professional units, provided that such professional units are serviced by approved professional position employments.

§ 16.312. Salaries: Beginning 1971-1972

(a) The annual salary of personnel authorized for employment under the Minimum Foundation Program for the school year 1971-1972 and for each year thereafter shall be the monthly base salary, plus increments, shown in the schedule (entitled "Texas State Public Education Compensation Plan") below, multiplied by the number of months prescribed in the position description herein for each respective position. The salaries fixed in this schedule are minimum salaries only, and each district may supplement such salaries.

(b) The following schedule constitutes the Texas State Public Education Compensation Plan effective 1971-1972, and thereafter:

SALARY BY STEPS ABOVE BASE

Pay Grade	Base Monthly Salary	1	2	3	4	5	6	7	8	9	10
1	\$ 300	\$ 315	\$ 331	\$ 348	\$ 365	\$ 383	\$ 402	\$ 422	\$ 443	\$ 465	\$ 488
2	360	378	397	417	438	460	483	507	532	559	587
3	450	473	497	522	548	575	604	634	666	699	734
4	480	504	529	555	583	612	643	675	709	744	781
5	540	567	595	625	656	689	723	759	797	837	879
6	570	599	629	660	693	728	764	802	842	884	928
7	600	630	662	695	730	767	805	845	887	931	978
8	660	695	730	767	805	845	887	931	978	1027	1078
9	690	725	761	799	839	881	925	971	1020	1071	1125
10	720	756	794	834	876	920	966	1014	1065	1118	1174
11	750	788	827	868	911	957	1005	1055	1108	1163	1221
12	780	819	860	903	948	995	1045	1097	1152	1210	1270
13	840	882	926	972	1021	1072	1126	1182	1241	1303	1368
14	900	945	992	1042	1094	1149	1206	1266	1329	1395	1465
15	1050	1103	1158	1216	1277	1341	1408	1478	1552	1630	1712
16	1200	1260	1323	1389	1458	1531	1608	1688	1772	1861	1954
17	1350	1418	1489	1563	1641	1723	1809	1899	1994	2094	2199
18	1500	1575	1654	1737	1824	1915	2011	2112	2218	2329	2445

Each individual will move to the step in this schedule immediately above the monthly rate received in 1970-1971 and shall advance thereafter one additional step with each added year of experience until the maximum is attained.

(c) The position descriptions, required preparation and education, and number of monthly payments authorized for each position under the Texas State Public Education Compensation Plan are as follows:

Pay Grade	No. Mos. Paid	Class Title	Description of Positions Assigned to Class Title	Required Preparation and Education
1	10	Aide I	Assist teacher by duplicating materials; performing clerical operations; supervising students in routine drills or in P.T. drills or lunchroom supervision.	Some high school, community ties.
			Assist in office procedures at file clerk level.	High school graduate.
2	10	Aide II	Assist teacher in class drill exercises, in spotting student problems or problem students; perform functions of Aide I, as needed.	High school graduate.
			Perform stenographic, book-keeping, and other clerical functions.	High school graduate and business college training.
3	10	Aide III	Relieve teacher of most routine drill of students; work in team teaching productively. Perform as an "Assistant Teacher" under direction of qualified teacher.	2 years college or experience equivalent.
			Perform secretarial, high-level receptionist, junior accounting, personnel assistant, campus principal secretary, etc.	2 years college plus business training.
4	10	* Teacher Trainee I	Emergency Permit Teacher without degree, but with personal traits needed to function in the classroom. Teaches students under frequent supervisory check by principal, grade-level or department head.	Minimum 2 years college, normally no less than 3 years college.
5	10	* Teacher Trainee II	Emergency Permit Teacher with college degree but deficiencies in educational preparation in professional or academic background. Teaches students under frequent supervisory check by principal, grade-level or department head.	College degree but certain educational deficiencies.
5	10	* Certified Non-degree Teacher	Teach at grade level or in teaching field for which prepared, under general supervision only.	Fully certified as teacher, but no college degree.

* These positions are presently authorized under the Minimum Foundation Program.

Pay Grade	No. Mos. Paid	Class Title	Description of Positions Assigned to Class Title	Required Preparation and Education
6	10	* Nurse, R.N.	School nurse <i>without degree</i> .	R.N. (only)
7	10	* Teacher, B.A.	Teach at grade level or in teaching field for which prepared, under general supervision only.	Degree, no deficiency in professional education or in teaching field. Fully certified.
7	10	* Vocational Trades and Industries Teacher	Teach in an approved vocational trades and industries program.	Approved by State Board of Vocational Education.
7	10 11 12	* Vocational Teachers	Teach in approved vocational program.	Bachelor's degree; certified.
7	10	* Librarian I	Supervise school library or function as one of several librarians on a major campus.	Degree; certified.
7	10	* Visiting Teacher I	Works on personal, educational, family, and community problems with children, parents, school personnel, and community agencies.	Degree; certified.
7	10	* Nurse, B.A.	School nurse.	Degree; certified.
8	10	* Teacher, M.A.	Teach at grade level or in teaching field for which prepared, under general supervision only.	Master's degree; fully certified.
8	10 11 12	* Vocational Teacher	Teach in approved vocational program.	Master's degree; certified.
8	10	* Librarian II	Supervise school library or function as one of several librarians on a major campus.	Master's degree; fully certified.
8	10	* Physician	Serve as school physician.	M.D. degree.
8	10	* Visiting Teacher II	Works on personal, educational, family, and community problems with children, parents, school personnel, and community agencies.	Master's degree; certified.

* These positions are presently authorized under the Minimum Foundation Program.

Pay Grade	No. Mos. Paid	Class Title	Description of Positions Assigned to Class Title	Required Preparation and Education
9	10	Special Duty Teacher	Teach regular load at grade level or in teaching field for which prepared, under general supervision only, and perform special duty as sponsor of major student program; serve as cooperating teacher for student teacher; direct after-hour recreation or "lighted library"; serve as team leader in team teaching; direct band or major music group; serve as coach or assistant coach.	Fully certified as teacher and special training for special duty assignment and holder of master's degree.
10	10	* Counselor I	Provide educational and vocational guidance to students with limited personal guidance.	Fully certified.
10	10	* Supervisor I	Provide consultant services to teachers in a grade level or adjacent grades or in a teaching field or group of related fields.	Fully certified.
10	10	* Instructional Officer I	Serve as part-time principal on campus with 19 or fewer teachers.	Certified as administrator.
10	10	Administrative Officer I	Serve as principal functional assistant to superintendent in system of 5,000 ADA or less.	College degree with major or minor in assignment.
11	10	* Instructional Officer II	Serve as part-time principal on campus with 20 or more teachers.	Certified as administrator.
11	10	Administrative Officer II	Serve as principal functional assistant to superintendent in system of 5,001-12,500 ADA.	Same as Administrative Officer I plus experience in function.
12	10	Teacher Leader	(1) as grade-level head, department head, coordinate work of minimum of five teachers; or (2) as director of learning or resource center provide instructional leadership to minimum of 10 classroom teachers.	Fully certified as teacher; usually would have special training in assignment.
12	11	* Instructional Officer III	Serve as full-time principal on campus with 19 or fewer teachers.	Fully certified as administrator.
12	10	Administrative Officer III	Direct major administrative activity in a system of 12,501-25,000 ADA.	Same as Administrative Officer I plus minimum 2 years' related experience.

* These positions are presently authorized under the Minimum Foundation Program.

Pay Grade	No. Mos. Paid	Class Title	Description of Positions Assigned to Class Title	Required Preparation and Education
13	11	* Instructional Officer IV	Serve as full-time principal on campus with 20-49 teachers.	Fully certified as administrator.
13	11	Instructional Officer IV	Serve in a system of 12,501-25,000 ADA under an assistant superintendent as key specialist for major instructional program.	Fully certified as administrator or in suitable speciality.
13	12	Administrative Officer IV	Serve in capacity comparable to Instructional Officer IV above.	Same as Administrative Officer I plus 3 years' experience in function.
14	11	* Instructional Officer V	Serve as full-time principal on campus with 50-99 teachers.	Fully certified as administrator.
14	12	* Instructional Officer V	Serve as full-time principal on campus with 100 or more teachers.	Fully certified as administrator.
14	12	* Administrative Officer V	Serve as superintendent of system of 3,000 ADA or less.	Fully certified as administrator.
14	12	Instructional/Administrative Officer V	(1) Serve as assistant superintendent in system of 12,501-25,000 ADA or one of several in larger system; (2) serve in system of 25,001-50,000 ADA to direct (under an assistant superintendent) major instructional function.	Fully certified as administrator or in speciality.
14	12	Administrative Officer V	Serve in administrative capacity of comparable level as above in personnel, business, accounting, planning, research, etc.	Same as Administrative Officer I plus 5 years' related experience.
15	12	* Administrative Officer VI	Serve as superintendent in system of 3,001-5,000 ADA.	Fully certified as administrator.
15	12	Instructional/Administrative Officer VI	Serve as assistant superintendent or high-level director for major program (such as instruction, business manager, personnel director, research, planning) in system of 25,001-50,000 ADA.	Fully certified as administrator or in speciality.
16	12	* Administrative Officer VII	Serve as superintendent in system of 5,001-12,500 ADA.	Fully certified as administrator.
16	12	Instructional/Administrative Officer VII	Serve as assistant superintendent or equivalent status, coordinating group of major functions in system of more than 50,000 ADA.	Fully certified as administrator or in speciality.

* These positions are presently authorized under the Minimum Foundation Program.

Pay Grade	No. Mos. Paid	Class Title	Description of Positions Assigned to Class Title	Required Preparation and Education
17	12	* Administrative Officer VIII	Serve as superintendent in system of 12,501-50,000 ADA.	Fully certified as administrator.
18	12	* Administrative Officer IX	Serve as superintendent in system of more than 50,000 ADA.	Fully certified as administrator.

* These positions are presently authorized under the Minimum Foundation Program.

§ 16.313. Promotions, Demotions, Etc.

The commissioner of education shall develop policies, subject to approval by the State Board of Education, to provide proper salary adjustments for promotions and demotions within grades provided in the compensation schedule, and for moving experienced teachers into the schedule who were not employed in 1969-1970 or 1970-1971.

§ 16.314. Increases in 1974 and 1978

To the salary of each person employed under the Texas Public Education Compensation Schedule as printed in Section 16.312(b) of this code there shall be added \$60 per month effective September 1, 1974, and continuing thereafter. An additional \$66 per month shall be added effective September 1, 1978, and continuing thereafter to each salary provided under the Compensation Schedule as adjusted in 1974.

§ 16.315. Teacher Aides

Effective for the school year 1970-1971 and for each school year thereafter, there shall be provided one teacher aide for each 20 classroom teacher units earned by a school district. For the school year 1970-1971, an aide shall be paid a monthly salary of \$300 and shall receive such salary for 10 months. For 1971-1972 and thereafter, the salary shall conform to the schedule provided for an Aide I in the Texas State Public Education Compensation Plan.

§ 16.316. Certified Teachers Holding Law Degree

Beginning with the school year 1967-1968, any person certified to teach in the public schools of Texas who holds a bachelor of laws or doctor of jurisprudence degree from an accredited law school shall have his minimum salary calculated on the basis of a master's degree.

SUBCHAPTER E. CURRENT OPERATING COST

§ 16.45. Current Operating Cost

The total current operating cost for each school district, other than professional salaries and transportation, shall be determined by multiplying the number of approved classroom teacher units, exceptional children teacher units, and vocational teacher units by \$660, and grants therefor shall be allotted.

Amended by Acts 1971, 62nd Leg., p. 1507, ch. 405, § 28, eff. May 26, 1971.

SUBCHAPTER F. TRANSPORTATION SERVICES

§ 16.56. Calculation of Allotment

* * * * *

(c) Allowable total base costs of maintenance, operation, salaries, depreciation, etc., for each bus shall be:

72 capacity bus	\$3,276 per year
60-71 capacity bus	3,156 per year
49-59 capacity bus	3,036 per year
42-48 capacity bus	2,916 per year
30-41 capacity bus	2,796 per year
20-29 capacity bus	2,676 per year
15-19 capacity bus	2,196 per year

Subsec. (c) amended by Acts 1971, 62nd Leg., p. 1508, ch. 405, § 30, eff. May 26, 1971.

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§ 16.57. Routes and Systems: Evaluation and Approval

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(d) Repealed by Acts 1971, 62nd Leg., p. 1162, ch. 267, § 1, eff. May 19, 1971.

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§ 16.62. Transportation Allotment for Exceptional Children Program

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(b) For physically and/or orthopedically handicapped children, visually handicapped children with conditions making impractical the use of public transportation, deaf children, trainable mentally retarded children, and/or educable mentally retarded children, the transportation allotment shall be \$150 per exceptional child receiving such transportation, provided the district locally determines and certifies subject to the approval of the state commissioner of education that the pupil:

- (1) is unable to utilize existing regular transportation services; and
- (2) would be unable to attend the exceptional children class unless such special transportation is provided.

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1494, ch. 405, § 20, eff. May 26, 1971.

SUBCHAPTER G. FINANCING THE PROGRAM

§ 16.711. Committee to Study Financing of Program

(a) There is hereby established a committee to be comprised of 18 members: Six to be appointed by the governor, six by the lieutenant governor, and six by the speaker of the house. Three members appointed by the lieutenant governor shall be members of the senate and three members appointed by the speaker of the house shall be members of the house of representatives. The committee members shall serve from the date of their respective appointments until August 31, 1971. Members of the committee shall serve without compensation but each shall receive

reimbursement for actual travel expense when on official business of the committee.

(b) The governor shall call the first meeting of the committee immediately after a majority of the members have accepted appointment and at that time the members shall elect a chairman and a vice chairman from among their number and adopt procedural rules governing membership and committee conduct.

(c) The committee may create advisory committees to perform officially and effectively the duties and responsibilities imposed by this section.

(d) A majority of the committee shall constitute a quorum.

(e) The committee shall have the responsibility of studying the relationship between the state and local school districts in financing the Minimum Foundation Program. They shall examine the structure of the economic index now in operation, ascertaining its weaknesses and its strengths. It shall review the findings of the Governor's Committee on Public School Education and evaluate information available relative to the financing of the Minimum Foundation Program. They shall explore all facets and all possibilities in relation to this problem area and shall recommend to a called session of the legislature or to the 62nd Legislature convening in 1971 a specific formula or formulae to establish a fair and equitable basis for the division of the financial responsibility between the state and the various local school districts of Texas.

(f) There is hereby appropriated from the General Revenue Fund for the fiscal year ending August 31, 1970, the sum of \$25,000 to pay the expenses of the committee. Any unexpended balance of the original appropriation of \$25,000 is hereby reappropriated to carry out the work of the committee during the fiscal year beginning September 1, 1970.

(g) The State Board of Education and the committee shall coordinate their efforts and the State Board of Education shall cooperate with the committee and shall furnish professional, technical, and clerical staff when deemed necessary to implement the work of the committee. Every state agency, department, and institution, and every state, county, and school district official is directed to provide such information as may be requested by the committee and to assist the committee in accomplishing its objective.

(h) The committee shall report the results of its studies and make recommendations to the governor and to each member of the legislature not later than August 31, 1970. Because of the serious problem which exists in the financing of the Minimum Foundation Program and of apparent inequities in the allocation of funds to be provided by local school districts, the committee is encouraged to complete its work at the earliest possible date so that a solution might be found to be made applicable to the 1970-1971 school year.

Added by Acts 1971, 62nd Leg., p. 1509, ch. 405, § 33, eff. May 26, 1971.

§ 16.72. Total Amount Chargeable to Districts

(a) The sum of the amounts to be charged for the 1969-1970 school year against the local school districts of the state toward the Foundation School Program shall be \$180,800,000, to which shall be added by the State Board of Education at its July meeting in 1969, 20 percent of the estimated increased cost of the Foundation Program authorized by Acts of the 61st Legislature amending the Foundation School Program.

(b) The sum of the amounts to be charged for the 1970-1971 school year against the local school districts of the state toward the Foundation School Program shall be \$204,900,000, to which shall be added by the State Board of Education at its March meeting in 1970, 20 percent of the estimated increased cost of the Foundation Program authorized by Acts of the 61st Legislature amending the Foundation School Program.

(c) For the 1971-1972 school year, and for each school year thereafter, the sum of the amounts to be charged against the local school districts of the state toward the Foundation School Program shall be 20 percent of the estimated total cost of the Foundation School Program for the immediately preceding school year, plus an amount equal to the difference between the gross local fund assignment and the net local fund assignment for the immediately preceding school year.

Amended by Acts 1971, 62nd Leg., p. 1508, ch. 405, § 31, eff. May 26, 1971.

§ 16.73. Estimate of Total Cost of Program; Local Assignment

At its regular meeting in March, 1971, and at each regular meeting in March thereafter, the State Board of Education, after receiving the recommendation of the state commissioner of education, shall estimate the total cost of the Foundation School Program for the then current school year, based upon laws and approved school budgets in effect on the date when such estimate is made. Within 30 days after such estimate has been made, the state commissioner of education, subject to the approval of the State Board of Education, shall assign to each school district, according to its taxpaying ability as determined in this subchapter, its proportionate part of such total to be raised locally for the next school year and applied towards the financing of its Minimum Foundation School Program.

Amended by Acts 1971, 62nd Leg., p. 1509, ch. 405, § 31, eff. May 26, 1971.

§ 16.741. Livestock Sales From Feedlots

(a) In calculating an economic index of the financial ability of each county to support the Foundation School Program pursuant to Section 16.74 of this code, the commissioner of education shall calculate the value of cattle or other animal sales from feedlots at the net increase in value while in the feedlot.

(b) The "net increase in value in a feedlot" is arrived at by using the latest three years' average of the Federal Reserve Bank's interest rate as of January 1 of each year to which is added one and one-half percentage points. This total interest rate percentage figure then multiplied by the average sale value of cattle or other animals from the feedlot, will result in the net increase in value while in a feedlot, and is the figure that shall be used to carry out the purposes of this section.

Added by Acts 1971, 62nd Leg., p. 1494, ch. 405, § 21, eff. May 26, 1971.

§ 16.75. County Assignment

For the school year beginning 1971-1972 and each school year thereafter, the state commissioner of education shall calculate and determine the total sum of local funds that the school districts of a county shall be assigned to contribute toward the total cost of the Foundation School Program by multiplying 20 percent of the estimated Foundation Program cost for the immediately preceding school year, plus an amount equal to the difference between the gross local fund assignment and the net local fund assignment for the immediately preceding school year, as determined under the provisions of this subchapter by the economic index determined for each county. The product shall be regarded as the local funds available in each respective county toward the support of the Foundation School Program and shall be used in calculating the portion of said amount which shall be assigned to each school district in the county.

Amended by Acts 1971, 62nd Leg., p. 1509, ch. 405, § 32, eff. May 26, 1971.

§ 16.76. School District Assignment

* * * * *

(b) In any district containing state university-owned land, state-owned prison land, land in one or more parcels comprising a total area in excess of 7,000 acres used for municipal cooling lakes in the generation of electricity in counties having a population of more than 700,000 according to the last preceding federal census, federal-owned forestry land, federal owned reservoirs, federal-owned recreation areas, federal-owned military reservations, or federal-owned Indian reservations, the amount assigned to a school district shall be reduced in the proportion that the area included in the above named classification bears to the total area of the district. For purposes hereof, state university owned land is defined to mean and include also state owned land located in Brazos County and devoted to the use of Texas A&M University and land owned by East Texas State University in Hunt County and land owned by Pan American University.

* * * * *

(d) Beginning with the school year 1967-1968, and thereafter, in any school district having three percent or more of its total scholastic population for the preceding school year composed of scholastic residents and transfers of tax-exempt institutions for orphan, dependent, and/or neglected children, the amount assigned to such a district shall be reduced for the current school year by an amount equal to the product of the total average daily attendance of students who were residents and/or transfers of such tax exempt institutions during the preceding school year multiplied by \$151.50. The superintendent of any district desiring to receive such a reduction in assignment and qualifying therefor shall certify to the Central Education Agency, not later than December 1 of each year, the following information:

(1) the total average daily attendance of the school district determined for students residing in the district for the preceding school year;

(2) the average daily attendance for the preceding school year determined for the scholastic residents of the tax exempt institutions for orphan, dependent, and/or neglected children; and

(3) a list showing the name of each such institution scholastic, the total daily attendance earned for such students in the preceding school year, and the name and address of the institution.

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1494, ch. 405, § 22, eff. May 26, 1971; Subsec. (b) amended by Acts 1971, 62nd Leg., p. 2408, ch. 758, § 1, eff. June 8, 1971; Subsec. (d) amended by Acts 1971, 62nd Leg., p. 1494, ch. 405, § 23, eff. May 26, 1971.

* * * * *

§ 16.77. Notification of Local Fund Assignment

(a) The county tax assessor-collector in each county, in addition to his other duties prescribed by law, shall certify to the state commissioner of education, not later than December 1 of each year, the following information:

(1) the assessed valuation, on a state and county valuation basis, of all property subject to school district taxation in each school district, or portion of a school district in such county, and the total assessed valuation of all property subject to school district taxation in the county;

(2) the total area of each school district; and

(3) the area within each school district comprised of state university-owned land, state-owned prison land, federal-owned forestry

land, federal-owned reservoirs, federal-owned recreation areas, federal-owned military reservations, and/or federal-owned Indian reservation.

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 1495, ch. 405, § 24, eff. May 26, 1971.

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SUBCHAPTER G-1. FOUR-QUARTER SCHOOL YEAR

Subchapter G-1 consisting of §§ 16.861 to 16.864 was added by Acts 1971, 62nd Leg., p. 2054, ch. 632, § 1, effective August 30, 1971.

§ 16.861. Transition to Four-Quarter System; Curriculum Revision

The Central Education Agency shall prepare a reorganized curriculum based on operation of the schools on a quarter basis. The revision shall be so structured that the material covered during the present school year of two semesters is covered in three three-month quarters. The agency shall distribute this restructured curriculum to each school district in the state in sufficient time so that the new curriculum can be put into operation beginning with the 1972-1973 school year.

§ 16.862. Operation on Quarter Basis

Beginning with the 1972-1973 school year, each school district in this state may operate on the basis of a quarter system, and beginning with the 1973-1974 school year, each school district in this state shall operate on the basis of a quarter system, with the schools being in operation during at least three quarters during each school year, providing 180 days of instruction for students and 10 days of inservice education for teachers.

§ 16.863. Foundation School Program Credit

Each school district shall receive average daily attendance credit under the Foundation School Program for attendance by a student for any three quarters during any one school year.

§ 16.864. Four-Quarter Operation Authorized

(a) A school district may choose to operate all or some of its schools for all four quarters of the school year. This choice shall be approved or disapproved by the district school board in a regularly scheduled open meeting. If a district so chooses, no credit for average daily attendance under the Foundation School Program may be given to the district for attendance by any one student for more than three quarters during any one school year. Attendance by a student for his fourth quarter must be financed either by the student on a tuition basis or by the district from its own funds, at the option of the district.

(b) A district operating during all four quarters of the school year shall decide which students are to attend school during which quarters. However, schedules shall be so arranged that all members of a family attending the schools of a district may attend the same three quarters.

(c) A district operating during all four quarters of the school year may not require a teacher to teach more than three quarters plus the number of days provided by law for inservice education and preparation during any one school year. A teacher or other school employee under the Minimum Foundation Program who elects to work four quarters during a school year shall receive a minimum salary which is increased proportionately in compliance with the state compensation plan.

(d) A district operating during all four quarters of the school year may not require a student to attend more than three quarters.

**SUBCHAPTER H. QUARTERLY SEMESTER
PILOT PROGRAMS**

Acts 1971, 62nd Leg., p. 2054, ch. 632, § 2, provides that effective September 1, 1972, Subchapter H (§§ 16.91 to 16.95) is repealed.

SUBCHAPTER H-1. THREE-SEMESTER PILOT PROGRAMS

Subchapter H-1 consisting of §§ 16.971 to 16.975 was added by Acts 1971, 62nd Leg., p. 1449, ch. 405, § 25, effective May 26, 1971.

§ 16.971. Pilot Program

For the purpose of exploring the feasibility of operating three-semester pilot programs, public school districts of this state are hereby authorized to operate (in lieu of the usual 9-month program) a 12-month school year program and to receive allocation of state aid toward financing the additional 3-month operation from the Foundation Program Fund, determined in the manner prescribed in this subchapter. Provided, however, that the district shall operate such 12-month program under its proposed plan submitted to the Central Education Agency, and subject to approval of the agency as meeting policy and regulations established and adopted by the State Board of Education applicable thereto.

§ 16.972. Limitation

(a) Three-semester pilot programs, annually approvable under this subchapter, shall be restricted in number to involve a maximum of 10 programs not to exceed 100,000 pupils, based on average daily attendance in the preceding school year, and the attendance of eligible pupils shall be restricted to two semesters out of the three-semester program.

(b) For purposes only of this pilot program, any child otherwise eligible who becomes six years of age after September 1 may be admitted to public school in any following semester beginning after he has reached six years of age, and such attendance shall be counted as eligible attendance for allocation purposes of the Foundation School Program Fund.

§ 16.973. Cost Basis

The cost of operating such approved three-semester pilot programs shall be borne by the state and each participating district on the same percentage basis that applies to financing the Foundation School Program within the respective district.

§ 16.974. Calculation of Costs

For purpose of computing authorized state aid and allocations under this subchapter, the cost of the program shall be ascertained as follows:

(1) The district's average daily attendance for classroom teacher unit eligibility and allocations shall be determined on a three-semester basis, limiting eligible pupil attendance to two semesters within each scholastic year. Eligibility for special service teachers, supervisors and/or counselors, head teachers, part-time principals, and full-time principals shall be determined by dividing the total aggregate days of attendance in the pilot program by the number of days that instruction is offered during two semesters, determined to the best advantage of the district.

(2) An additional salary adjustment, based on the state minimum salary schedule, shall be added for classroom teacher units occasioned by a 12-month operation. Provided further that the number of months and salary, based on the state minimum salary schedule, for eligible special service teachers, supervisors and/or counselors, head teachers, part-time principals, and full-time principals shall be allowed for 12 months.

(3) The total current operating costs of each pilot program as herein described, other than professional salaries and transportation, shall be determined by multiplying the number of classroom teacher units and exceptional teacher units times the number of months employed times \$67.

(4) An additional transportation allotment shall be added not to exceed the amount of one-third of the transportation allotment as normally computed for a nine-month operation.

§ 16.975. State's Share of Cost

The state's share of the cost shall be paid from the Minimum Foundation Program Fund, and this cost shall be considered by the Foundation Program Committee in estimating the funds needed for Foundation School Program purposes.

CHAPTER 17. COUNTY ADMINISTRATION

SUBCHAPTER C. COUNTY SUPERINTENDENT

Section

17.65. Abolition of Office: Counties with no Common School Districts.

SUBCHAPTER B. POWERS AND DUTIES

§ 17.25. Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, § 54(1), eff. May 26, 1971

Section 17.25 related to jurisdiction of appeals in student transfer cases.

SUBCHAPTER C. COUNTY SUPERINTENDENT

§ 17.52. Office Budget for County Superintendent

(a) The office budget for an appointive or elective county superintendent may include the following items:

(1) Employment of a competent assistant with approval and confirmation of the county school trustees or county board of education. In counties with a total population equaling or fewer than 100,000, according to the last federal census, the annual salary of such assistant shall not exceed \$6,000. In counties with a total population greater than 100,000, according to the last federal census, the annual salary of such assistant shall not exceed \$6,500.

(2) Employment of such other assistants as may be necessary, provided that the total sum of all salaries of all assistants to the county superintendent does not exceed annually \$13,000 in counties having a total population equaling or fewer than 100,000, nor \$13,500 in counties having a total population greater than 100,000.

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 1512, ch. 405, § 37, eff. May 26, 1971; Subsec. (a) amended by Acts 1971, 62nd Leg., p. 2431, ch. 778, § 1, eff. Aug. 30, 1971.

* * * * *

§ 17.54. Supervisor

Whenever a supervisor is assigned a position under the county superintendent, as provided in Section 16.17 of this Code, the office and travel expenses of such supervisor may be included in the office budget of the county superintendent. Such expenses shall be in addition to the budget maximums set out above in Sections 17.52(b) and 17.53(2), but shall not exceed \$50 per month per supervisor. This budget item is limited to a ten-month basis.

Amended by Acts 1971, 62nd Leg., p. 2431, ch. 778, § 2, eff. Aug. 30, 1971.

§ 17.65. Abolition of Office: Counties with no Common School Districts

(a) The office of county superintendent is abolished in all counties which have within them no common school districts, or school districts classified as common school districts.

(b) Upon abolition of the office of county superintendent in any county, the duties and functions of such office, insofar as the same involve recommendations or approvals concerning the operations of the respective districts, shall devolve upon and be performed by the superintendent of schools of the independent school districts affected. The powers and functions assigned to the office of county superintendent under Sections 16.15 and 16.17, Texas Education Code, shall devolve upon and be performed by the executive director of the regional education service center of the region embracing such county; and all other powers and duties devolved by law upon the office of county superintendent shall be performed, ex officio, by the county judge of such county, without compensation from the state. All unused budget funds remaining at the expiration of the office shall revert back to their source.

(c) Nothing in this section shall apply to counties of 900,000 or more where the county superintendent and his staff are paid by the county. There shall be a county superintendent's office in these counties whether or not there is a common school district therein. The salaries of the county superintendent and his employees shall be set by the school board in said county.

(d) All counties in which an equalization fund has heretofore been created are hereby authorized to continue to levy, assess and collect in the same manner the same rate of tax or not to exceed the rate of tax heretofore authorized or attempted to be authorized by any election of the taxpaying voters of the county under any Act heretofore passed by the legislature, whether general or special; it being intended that the repeal of statutes by this Act shall not repeal or affect any tax or authority or power heretofore granted by the legislature under which any tax has heretofore been authorized or attempted to be authorized by an election held under any Act or Acts of the legislature heretofore enacted, whether general or special.

(e) The effective date of the abolition of the office of county school superintendent shall be at the expiration of the present term of office of the present county superintendent, the intent being that the present county superintendent in each of these counties shall serve the remainder of his elected term of office.

(f) Nothing in this section shall work an abolishment of the office of county school superintendent as long as the present holders of such office continue to hold same by continuous election; however, when the present holder of such office is defeated in any election, or the office of county school superintendent is vacated by death or resignation, such of-

... shall be abolished as prescribed in this section. (H.B.No.628, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3356, ch. 1024, Art. 2, § 34, eff. Sept. 1, 1971.

Acts 1971, 62nd Leg., p. 3335, ch. 1024, art. 2, which by section 34 added this section provided in sections 45 and 47:

"Sec. 45. Each section of this article takes effect only if and when the legislation on which it is based takes effect, but not earlier than September 1, 1971.

"Sec. 47. This article is intended as a codification only, and nothing in this article is intended to effect any substantive change in the law."

SUBCHAPTER E. COUNTY SCHOOL LANDS

§ 17.82. Sale of School Land

* * * * *

(b) The proceeds of any such sale shall be invested in bonds of the United States; the State of Texas; counties of the state; independent or common school districts; road precinct, drainage, irrigation, navigation, and levee districts in the state; or incorporated cities or towns; or in interest-bearing bank time deposits with the bank having been designated the depository for that county under the terms and conditions of the depository contract. These bonds and deposits shall be held by the county in trust for the benefit of its public free schools, and only interest thereon may be used and expended annually.

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1512, ch. 405, § 38, eff. May 26, 1971.

CHAPTER 18. COUNTYWIDE EQUALIZATION FUND OR COUNTY UNIT SYSTEM OF EQUALIZATION TAXATION

Section

18.31. Tax Rate in Counties With Population of 500,000.

§ 18.14. Distribution of Equalization Tax Funds

* * * * *

(b) The funds shall be distributed to the common and independent school districts of the county on the basis of the average daily attendance for the prior year as approved by the State Department of Education.

(c) Any county-line district shall be eligible to receive its per capita apportionment based upon the number of scholastic pupils residing in the county of the equalization district as shown by the average daily attendance for the prior year as approved by the State Department of Education.

Subsecs. (b), (c) amended by Acts 1971, 62nd Leg., p. 3048, ch. 1009, § 1, eff. June 15, 1971.

* * * * *

§ 18.31. Tax Rate in Counties With Population of 500,000

(a) In all counties having a population of 500,000 or more, according to the last preceding or any future federal census, the county judge shall, upon presentation to him of a petition praying for such an election, signed by qualified taxpaying voters of such county in a number equal to 10 percent or more of those voting for governor in the last preceding general election, order an election for the purpose of submitting to the qualified taxpaying voters of such county who own taxable property and who have duly and personally rendered it for taxation, the proposition of whether or not a tax of and at a rate not to exceed five cents on the \$100 valuation of all property subject to school district taxation in such county shall be levied, assessed, and collected for the purpose of creating an equalization fund for the public free schools in such county to be expended for the equalization of educational opportunities and payment of administrative expense.

(b) Such an election which shall be held in the same manner on the same day at the same polling place and under the same laws and regulations as have previously governed the holding of such elections in such counties; and the election supplies, ballots, and tally sheets shall be furnished by the same authorities and returns shall be made as heretofore provided for such elections. Notices thereof shall be given by publication or by posting as heretofore provided; and if and when authorization is granted, such tax shall be levied, assessed, and collected in the same manner as heretofore provided for such equalization taxes and the administration, depository bank, checking, accounting, and disbursement of such taxes shall be subject to all the rules and statutes governing school funds in such counties; it being the intention of this section only to increase the permissive rate of tax to be levied for such purposes.

Added by Acts 1971, 62nd Leg., p. 3008, ch. 994, § 5, eff. Aug. 30, 1971.

**CHAPTER 19. CREATION, CONSOLIDATION, AND
ABOLITION OF SCHOOL DISTRICTS**

**SUBCHAPTER F. MUNICIPAL SCHOOL DISTRICTS—CREATION,
BOUNDARY CHANGES, CONVERSION, ETC.**

§ 19.163. Status of District

Municipal school districts, established under either Section 19.161 or Section 19.162 of this code shall be classified as independent school districts and shall operate and be governed according to the general laws relative to independent school districts, as provided in Chapter 23 of this code, except insofar as such laws are modified by the specific provisions relative to municipal school districts as contained in Chapter 24 of this code.

Amended by Acts 1971, 62nd Leg., p. 3007, ch. 994, § 2, eff. Aug. 30, 1971.

§ 19.164. Extension of Boundaries

* * * * *

(g) When hereafter an entire territory of a contiguous district or districts is added for school purposes only, under the provisions of this section, the extended city control district shall be regarded as eligible for incentive aid to the extent and under the conditions prescribed in Subchapter G, Chapter 23, of this code.

Subsec. (g) amended by Acts 1971, 62nd Leg., p. 3008, ch. 994, § 3, eff. Aug. 30, 1971.

SUBCHAPTER M. ABOLITION OR SUBDIVISION OF COMMON SCHOOL DISTRICTS

§ 19.401. Authority of County Governing Board

(a) The county school trustees or county board of education, as the case may be, may abolish and annex or subdivide any common school district located entirely within its county, provided that a formal application or request is submitted by the trustees of the common school district. Said application or request shall not affect the authority of the county school trustees or county board of education, as the case may be, to determine if the common school district should be abolished, annexed or subdivided.

(b) The territory of the district so abolished shall be annexed to a single contiguous independent school district, or subdivided and annexed to one or more contiguous independent school districts located entirely within its county, in such manner as may be determined by order of the county governing board.

Amended by Acts 1971, 62nd Leg., p. 2399, ch. 752, § 1, eff. June 8, 1971.

Section 2 of the 1971 amendatory act provided: "If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications

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

CHAPTER 20. SCHOOL DISTRICT FUNDS

SUBCHAPTER C. MISCELLANEOUS PROVISIONS

Section

20.481. Use of County Available Fund Apportionment for Vocational and Technical Schools.

SUBCHAPTER C. MISCELLANEOUS PROVISIONS

§ 20.43. Interest Bearing Time Warrants

* * * * *

(c) No school district in the State of Texas shall issue such interest-bearing time warrants in excess of two percent of the assessed valuation of the district, for the year in which such interest-bearing time warrants are issued; nor shall the payment of such interest-bearing time warrants in any one year exceed the anticipated surplus income of the district for the year in which the warrants are issued. Based on the budget of the district for said year, such anticipated income to be computed by taking the entire expected income of such school district from every source for the year in which such interest-bearing time warrants are issued, less teachers' salaries, bus aid included in the foundation fund, and that part of the local maintenance tax earmarked for salaries and known in the Gilmer-Aiken Law as the economic index or fund assignment. The anticipated income computation as herein defined shall be exclusive of all bond taxes. No school district shall have outstanding at any one time warrants totaling in excess of \$60,000 under the provisions of this section.

Subsec. (c) amended by Acts 1971, 62nd Leg., p. 1512, ch. 405, § 39, eff. May 26, 1971.

* * * * *

§ 20.481. Use of County Available Fund Apportionment for Vocational and Technical Schools

Where any public school district or accumulation of districts of this state operates a school designated as an area vocational school for vocational and technical school purposes and/or which participates in such a designated area vocational school program, its annual county available school fund apportionment, if any, shall be employed in the operation of such school and/or in financing facilities therefor notwithstanding any laws to the contrary; provided further, that any such school district(s) shall not be held accountable for or charged with county available school funds in determination of eligibility for minimum foundation school program funds.

Added by Acts 1971, 62nd Leg., p. 3008, ch. 994, § 4; eff. Aug. 30, 1971.

CHAPTER 21. PROVISIONS GENERALLY APPLICABLE TO SCHOOL DISTRICTS**SUBCHAPTER A. GENERAL PROVISIONS****Section**

21.007. Qualifications of Trustees.

SUBCHAPTER B. ADMISSION AND ATTENDANCE

21.0331. Blind, Deaf, or Mentally Retarded Children.

SUBCHAPTER C. TRANSFERS AND SCHOOL ASSIGNMENTS

21.063. Tuition Fee for Transfer Students.

21.064, 21.065. Repealed.

21.080. Transfer of Children of Employees of State Schools.

SUBCHAPTER D. COURSES OF STUDY

21.1111. Contracts With Other Schools for Vocational Classes.

21.113. Dangers of Crime and Narcotics.

21.114. Advisory Commission.

21.115. Duties of Advisory Commission.

21.116. Instruction Sessions for Teachers.

21.117. Physical Education.

SUBCHAPTER E. KINDERGARTEN

21.135. Operation of Kindergartens on Full-Day or Half-Day Basis.

SUBCHAPTER F. SCHOOL BUSES

21.172. Transportation to Nearest College or University.

SUBCHAPTER H. RECORDS AND REPORTS

21.256. Annual Audit; Report.

SUBCHAPTER I. DISCIPLINE, LAW AND ORDER

21.308. Security Personnel.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

21.910. Developmental Leaves of Absence.

21.910. Financial Support for Instructional Television Services.

SUBCHAPTER A. GENERAL PROVISIONS

§ 21.007. Qualifications of Trustees

No person shall be elected as a trustee of a school district in this state unless he is a qualified voter. This section does not apply to a school district trustee elected or appointed before August 30, 1965.

Added by Acts 1971, 62nd Leg., p. 3009, ch. 994, § 6, eff. Aug. 30, 1971.

SUBCHAPTER B. ADMISSION AND ATTENDANCE

§ 21.033. Exemptions

The following classes of children are exempt from the requirements of compulsory attendance:

(1) any child in attendance upon a private or parochial school which shall include in its course a study of good citizenship;

(2) any child whose physical or mental condition is such that attendance in regular classrooms or in special education facilities supported with tax funds is not feasible, and who holds a definite certificate of a qualified physician specifying this condition and covering the period of absence; and

(3) any child more than 17 years of age who has satisfactorily completed the work of the ninth grade and who presents to the county superintendent satisfactory evidence showing that his services are needed in support of a parent or other person standing in a parental relation to the child.

Amended by Acts 1971, 62nd Leg., p. 1513, ch. 405, § 40, eff. May 26, 1971.

§ 21.0331. Blind, Deaf, or Mentally Retarded Children

(a) A child who is blind or deaf and who does not have adequate or appropriate educational facilities available in the area in which he resides shall be referred by the superintendent of the school district in which he resides to the Texas School for the Blind or the Texas School for the Deaf for admission as appropriate to the child's disability. The governing board of every school district referring blind or deaf children to the Texas School for the Blind or the Texas School for the Deaf shall promptly notify the Central Education Agency of each referral made, and notice of referral shall include a statement setting forth the basis for the determination that the child could not be served adequately or appropriately in the area in which the child resides.

(b) On or before October 30 of each year preceding a regular session of the legislature, the Central Education Agency shall furnish the governor and the budget office of the legislature with statistics relating to the number of children referred to or applying for admission to the Texas School for the Blind and the Texas School for the Deaf, the number of blind or deaf children actually being served by these schools, and the number of blind or deaf children who might be eligible for admission to these schools but whose admission has been delayed because of inadequate facilities at these schools.

(c) The governing board of any school district which contains children who are blind, deaf, mute, or mentally retarded and which has failed to provide adequate services for these children shall report this fact, the number of children, and the type of disability to the Central Education Agency each year at the time required by that agency.

Added by Acts 1971, 62nd Leg., p. 1513, ch. 405, § 41, eff. May 26, 1971.

SUBCHAPTER C. TRANSFERS AND SCHOOL ASSIGNMENTS

§ 21.061. Transfer of Student

(a) Any child, other than a high school graduate, who is over 6 and under 21 years of age at the beginning of any scholastic year may annually transfer from his school district of residence to another Texas district, provided that both the receiving district and the applicant parent or guardian or person having lawful control of the child jointly approve and timely agree in writing to transfer.

(b) Such a transfer agreement shall locally be filed and preserved as a receiving district record for audit purposes of the Central Education Agency.

Amended by Acts 1971, 62nd Leg., p. 1514, ch. 405, § 42, eff. May 26, 1971.

§ 21.062. Transfer of State Funds

Upon the filing and certification of the transfer of any such child in the manner timely and in the form prescribed by regulations of the State Board of Education, the state per capita apportionment shall transfer with the child; and for purposes of computing state allotments of districts eligible under the Foundation School Program Act, the attendance of the child prior to the date of transfer shall be counted by the transfer sending district and the attendance of the child after the date of transfer shall be counted by the transfer receiving district (H.B.No.476, 62nd Legis., Reg.Sess., 1971)

Amended by Acts 1971, 62nd Leg., p. 1514, ch. 405, § 42, eff. May 26, 1971; Acts 1971, 62nd Leg., p. 3340, Art. 2, § 8, eff. Sept. 1, 1971.

§ 21.063. Tuition Fee for Transfer Students

The receiving district may charge a tuition fee to the extent that the district's actual expenditure per student in average daily attendance, determinable by its board of trustees, exceeds the sum the district benefits from state aid sources as provided in Section 21.062 of this code. However, unless a tuition fee is prescribed and set out in transfer agreement prior to its execution by the parties, no increase in tuition charge shall be made for the year of that transfer that exceeds the tuition charge, if any, of the preceding school year.

Amended by Acts 1971, 62nd Leg., p. 1514, ch. 405, § 42, eff. May 26, 1971.

§§ 21.064, 21.065. Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, § 54(1), eff. May 26, 1971

Section 21.064 provided for appeal by a district dissatisfied with transfer of children.

Section 21.065 provided for payment of the per capita apportionment.

§§ 21.067 to 21.072. Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, § 54(1), eff. May 26, 1971

Section 21.067 provided for the right of high school pupils to transfer.

Section 21.070 provided for the issuance of warrants to the receiving school district for payment of tuition due.

Section 21.068 related to the certification of eligibility for tuition privileges in the receiving school.

Section 21.071 related to per capita apportionment payments.

Section 21.069 required a report from each receiving high school district.

Section 21.072 limited the state's obligation to pay tuition for pupils transferred.

§ 21.080. Transfer of Children of Employees of State Schools

A school age child of an employee of a State school for the mentally retarded which is constituted as a school district who resides within the boundaries of the State school property but who is not a student at the

State school is entitled to attend school in a school district adjacent to the State school free of any charge to his parents or guardian. Any tuition charge required by the admitting school district shall be paid by the school district constituting the State school out of funds allotted to it by the Central Education Agency.

Added by Acts 1971, 62nd Leg., p. 1815, ch. 540, § 1, eff. June 1, 1971.

SUBCHAPTER D. COURSES OF STUDY

§ 21.109. Language of Instruction

(a) English shall be the basic language of instruction in all schools. The governing board of any school district and any private or parochial school may determine when, in which grades, and under what circumstances instruction may be given bilingually.

(b) It is the policy of this state to insure the mastery of English by all pupils in the schools; provided that bilingual instruction may be offered or permitted in those situations when such instruction is educationally advantageous to the pupils. Such bilingual instruction may not be offered or permitted above the sixth grade without the express approval of the Texas Education Agency, which approval shall be granted on a three-year basis subject to reapproval at the end of that time.

Amended by Acts 1971, 62nd Leg., p. 1514, ch. 405, § 43, eff. May 26, 1971.

§ 21.111. Contracts With Other Schools for Vocational Classes

(a) The board of trustees of a school district may contract with another school district or with a public or private post-secondary educational institution or trade or technical school, which is regulated by the State, as designated in the State Plan for Vocational Education to provide vocational classes for students in the district.

(b) A pupil who attends vocational classes at another school pursuant to a contract authorized in Subsection (a) shall be included in computations of average daily attendance by the school district in which he is regularly enrolled.

(c) Any agreement entered into under the provisions of this section shall be subject to the rules and regulations of the State Board of Vocational Education, and the cost to the State shall not exceed the cost that would result if the classes were operated by the school district entering into the agreement.

(d) The instructors and instructional materials and equipment utilized in the classes shall be subject to the approval of the Central Education Agency.

(e) The instructors teaching in private schools, which are contracting with public schools for instruction of public school students, shall be eligible for the same in-service teacher education opportunities provided by the State for public school teachers.

Added by Acts 1971, 62nd Leg., p. 1740, ch. 507, § 1, eff. May 31, 1971.

§ 21.113. Dangers of Crime and Narcotics

The Central Education Agency shall develop curricula and teaching materials for units of study on the dangers of crime and narcotics. The units of study shall be required for all students each academic year for grades 5 through 12.

Added by Acts 1971, 62nd Leg., p. 1514, ch. 405, § 44, eff. May 26, 1971.

§ 21.114. Advisory Commission

(a) The Crime and Narcotics Advisory Commission is created. The advisory commission is composed of nine members, who shall serve for terms of two years expiring January 31 of odd-numbered years.

(b) The governor shall appoint three members of the commission, with the following representation:

- (1) a licensed physician;
- (2) an official of the Department of Public Safety; and
- (3) a narcotics official from the Federal Bureau of Narcotics and Dangerous Drugs.

(c) The lieutenant governor shall appoint three members of the commission, with the following representation:

- (1) an official of a local-level law enforcement agency;
- (2) a group social worker; and
- (3) a public school superintendent in a city with a population of over 200,000, according to the last preceding federal census.

(d) The speaker of the house of representatives shall appoint three members of the commission, with the following representation:

- (1) a businessman;
- (2) a college student who is either a senior or a graduate student; and
- (3) a juvenile judge who serves in a city with a population of over 200,000, according to the last preceding federal census.

(e) The advisory commission shall meet when the chairman deems necessary. The commission shall elect its chairman, vice chairman, and any other officers it deems necessary. The commission shall adopt rules to govern the conduct of its business.

(f) Members of the commission shall serve without compensation, but each member is entitled to reimbursement for actual and necessary expenses incurred in performing his duties, as provided by legislative appropriation.

Added by Acts 1971, 62nd Leg., p. 1515, ch. 405, § 44, eff. May 26, 1971.

§ 21.115. Duties of Advisory Commission

(a) The advisory commission shall:

- (1) advise and assist the Central Education Agency in developing curricula and teaching materials for a course on the dangers of crime and narcotics;
- (2) advise and assist the Central Education Agency in designating the number of hours that the course shall be taught; and
- (3) assist local citizens' groups formed to combat unlawful use of and traffic in drugs and narcotics.

(b) The commission shall develop a research program designed to measure the effectiveness of the commission's activities and shall prepare a research report annually to facilitate planning and development.

(c) The commission shall cooperate and coordinate its activities with any other state agency or legislative committee or commission that is investigating or studying drug and narcotics activity, availability, or use in Texas.

Added by Acts 1971, 62nd Leg., p. 1515, ch. 405, § 44, eff. May 26, 1971.

§ 21.116. Instruction Sessions for Teachers

(a) In order to keep the teachers abreast of the latest developments in the subject matter, the Central Education Agency, with the cooperation of the advisory commission, shall provide by regulation for annual instruction sessions.

(b) Every person assigned to teach the course in the public schools shall attend the instruction sessions as required by regulation of the Central Education Agency.

Added by Acts 1971, 62nd Leg., p. 1515, ch. 405, § 44, eff. May 26, 1971.

§ 21.117. Physical Education

Instruction in physical education shall be part of the course of instruction and training in the public elementary and secondary schools of the state. The state commissioner of education shall prepare courses of instruction for the public schools of the state for the purpose of carrying out this section.

Added by Acts 1971, 62nd Leg., p. 3009, ch. 994, § 7, eff. Aug. 30, 1971.

SUBCHAPTER E. KINDERGARTEN**§ 21.135. Operation of Kindergartens on Full-Day or Half-Day Basis**

A public school kindergarten may be operated on a half-day or a full-day basis at the option of the governing board of the school district.

Added by Acts 1971, 62nd Leg., p. 2409, ch. 759, § 1, eff. Aug. 30, 1971.

SUBCHAPTER F. SCHOOL BUSES**§ 21.172. Transportation to Nearest College or University**

(a) Any school district may furnish transportation by school bus or other conveyance to and from the nearest college or university for residents of the district who are enrolled at the college or university. Neighboring school districts may contract with each other to provide this transportation service for residents of the districts.

(b) Nothing in this section affects the transportation cost allotment to which any school district is entitled under the Minimum Foundation School Program.

Added by Acts 1971, 62nd Leg., p. 1516, ch. 405, § 45, eff. May 26, 1971.

SUBCHAPTER G. TEACHERS' EMPLOYMENT CONTRACTS

§§ 21.201 to 21.216. Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, § 54(1), eff. May 26, 1971

Sections 21.201 to 21.216 of Subchapter G provided for employment of teachers by probationary or continuing contracts.

SUBCHAPTER H. RECORDS AND REPORTS**§ 21.256. Annual Audit; Report**

(a) The board of school trustees of each and every school district of the state, whether created under general or special law, shall have its school district fiscal accounts audited annually at district expense by a Texas certified or public accountant holding a permit from the Texas State Board of Public Accountancy. Such annual audit shall be completed following the close of each such fiscal year.

(b) Such independent audit shall meet at least the minimum requirements as shall be, and in such form as may be prescribed by the State Board of Education and approved by the state auditor.

(c) Each treasurer (depository) receiving or having control of any school fund of any school district shall keep a full and separate itemized account with each of the different classes of its school funds coming into

his hands; provided further, the treasurer's records of the district's itemized accounts and records shall be made available to audit.

(d) A copy of the annual audit report, approved by the board of school trustees, shall be filed by the district with the Central Education Agency on or prior to the first day of December next following the close of the scholastic year for which audit was made. Where the board of trustees declines or refuses to approve its auditor's report, it shall nevertheless file with the Central Education Agency a copy of the audit report with its statement detailing reasons for failure to approve same.

(e) The audit reports shall be reviewed by the Central Education Agency, and the commissioner of education shall notify the board of trustees of objections, violations of sound accounting practices or law and regulation requirements, or of recommendations concerning same should he desire to make any. Where the audit report reflects that penal laws have been violated, the commissioner of education shall address such information to the appropriate county or district attorney, and to the attorney general. The commissioner of education shall have access to all vouchers, receipts, district fiscal and financial records, and such other school records as he may deem needed and appropriate for the review, analysis, and passing on audit reports.

(f) The audit report shall be submitted in lieu of the treasurer's (depository) report heretofore required to be filed annually with the commissioner of education.

Added by Acts 1971, 62nd Leg., p. 3009, ch. 994, § 8, eff. Aug. 30, 1971.

SUBCHAPTER I. DISCIPLINE, LAW AND ORDER

§ 21.308. Security Personnel

(a) The governing board of any school district may employ security personnel for use in any school within its district when the board in its discretion determines that the personnel are necessary.

(b) All costs incurred by a school district in employing security personnel shall be borne by the school district. (H.B.No.1007, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3356, ch. 1024, Art. 2, § 32, eff. Sept. 1, 1971.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

§ 21.905 Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, § 54(1), eff. May 26, 1971

Section 21.905 provided for consultation with teachers on matters of educational policy and conditions of employment.

§ 21.910. Developmental Leaves of Absence

Text as added by Acts 1971, 62nd Leg., p. 2727, ch. 888, § 1

(a) In this section, "teacher" means an employee of a school district who is employed in a position requiring a permanent teaching certificate under the laws of this State.

(b) The governing board of a school district may grant a developmental leave of absence for study, research, travel, or other suitable purpose to a teacher who has served in the same school district at least five consecutive school years.

(c) The governing board may grant a teacher a developmental leave of absence for one school year at one-half of his regular salary or for one-half of a school year at his full regular salary. Payment to the teacher shall be made periodically by the school district in the same manner, on the same schedule, and with the same deductions as if the teacher were on full time duty.

(d) The State Board of Education by regulation shall establish a procedure whereby applications for developmental leave are received and evaluated by the governing board of a school district and shall determine an equitable ratio of classroom teachers to other certified personnel who may be granted leave over a period of time.

(e) A teacher on developmental leave shall continue to be a member of the Teacher Retirement System of Texas and shall be a teacher of the school district for purposes of participating in programs, holding memberships, and receiving benefits afforded by his employment in the school district.

Added by Acts 1971, 62nd Leg., p. 2727, ch. 888, § 1, eff. Aug. 30, 1971.

For text as added by Acts 1971, 62nd Leg., p. 3007, ch. 994, § 9, see § 21.910, post.

§ 21.910. Financial Support for Instructional Television Services

Text as added by Acts 1971, 62nd Leg., p. 3007, ch. 994, § 9

(a) Any school district of this state classified common, independent school district or rural high school district whose governing board elects to utilize and contract for available educational television programs and services, including transmission services with educational television stations and interconnecting communications common carriers, to enrich its classroom instruction shall, upon application and pursuant to regulations prescribed by the Central Education Agency, be reimbursed for such costs from state funds to the extent herein authorized.

(b) The annual cost of such television service programs of the district shall be borne equally by the state and the participating district eligible therefor on the basis, one-half by the state and one-half by the district, provided that the state's part of the cost therein shall not exceed 75 cents per pupil determined on the Average Daily Attendance (ADA) of the district for the preceding school year.

(c) The state's share of the cost shall be paid from the foundation school fund, and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for foundation school program purposes.

Added by Acts 1971, 62nd Leg., p. 3010, ch. 994, § 9, eff. Aug. 30, 1971.

For text as added by Acts 1971, 62nd Leg., p. 2727, ch. 888, § 1, see § 21.910, ante.

CHAPTER 22. COMMON SCHOOL DISTRICTS

§ 22.09. Contracts With Teachers and Other School Officials

(a) The board of trustees of any common school district or any district which is classified as common shall at all times have the right to enter into written contracts employing a superintendent, principals, teachers, and other executive officers for a term not to exceed three years, provided that:

(1) all contracts for 12 months or more shall begin on July 1 and end on June 30 of the year terminating the contract; and

(2) all contracts for 12 months or more shall be approved by the county superintendent of the county having jurisdiction over the district.

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 3010, ch. 994, § 10, Aug. 30, 1971.

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CHAPTER 23. INDEPENDENT SCHOOL DISTRICTS

SUBCHAPTER A. BOARD OF TRUSTEES

Section

23.021. Certain Districts; Creation of Seven-Member Board.

SUBCHAPTER G. INCENTIVE AID PAYMENTS

- 23.991. Incentive Aid.
- 23.992. Amount; Computation.
- 23.993. Minimum ADA.
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- 23.995. Payments Reduced.
- 23.996. Consolidation Defined.
- 23.997. Conditions Precedent to Payment.
- 23.998. Cost.
- 23.999. Consolidation of County-Line Districts.

SUBCHAPTER A. BOARD OF TRUSTEES

§ 23.021. Certain Districts; Creation of Seven-Member Board

(a) Any independent school district created by special law may establish a board of trustees to be composed of seven members. When at least 25 percent of the number of qualified voters who voted in the last regular school board election sign and present to the county judge a petition praying for submission of the proposition that at the next regular school board election there shall be a vote as to whether or not the board of trustees shall be composed of seven members, the county judge shall determine the sufficiency of said petition, and if sufficient, shall enter his order upon the minutes of the commissioners court to submit the proposition as herein provided. Approval of the proposition shall be by a majority vote.

(b) If the proposition is approved, then at the next following regular school board election there shall be elected trustees, to serve a three-year term, to fill any new vacancies created by the approval of the proposition creating a seven-member board, if any, or any vacancy created by the expiration of the term of a member. Any member previously named shall serve the full term to which elected. The county judge may provide for staggered terms of the board of trustees, provided if it should be required that two or more newly elected trustees serve less than the full term of three years, then the determination of which members shall serve for the lesser term shall be by lot.

Added by Acts 1971, 62nd Leg., p. 3010, ch. 994, § 11, eff. Aug. 30, 1971.

§ 23.03. Application to Get on Ballot

* * * * *

(b) Candidates for office of trustee of an independent school district having fewer than 150 scholastics as shown by the last scholastic census

approved by the Central Education Agency must file their applications with the county judge of the county in which the district is located, but any five or more resident qualified voters of the district may request of the county judge that any name or names be listed on the official ballot as candidates.

(c) Candidates for office of trustee of an independent school district having 150 or more scholastics must file their applications with the secretary of the school board of trustees.

Subsecs. (b), (c) amended by Acts 1971, 62nd Leg., p. 902, ch. 128, § 1, eff. Aug. 30, 1971.

* * * * *

§ 23.05. Ballots: Districts With Fewer Than 150 Scholastics

(a) Ballots for the election of school trustees for independent school districts having fewer than 150 scholastics as shown by the last approved scholastic census shall be ordered by the county judge and must fulfill the requirements of this section.

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 902, ch. 128, § 2, eff. Aug. 30, 1971.

* * * * *

§ 23.06. Ballots: Districts With 150 or More Scholastics

(a) Ballots for the election of school trustees for independent school districts having 150 or more scholastics as shown by the last approved census shall be prepared as ordered by the trustees of the district and must fulfill the requirements of this section.

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 902, ch. 128, § 3, eff. Aug. 30, 1971.

* * * * *

§ 23.10. Returns; Canvass

(a) In those school districts having fewer than 150 scholastics, according to the latest approved scholastic census, the election officers shall make returns of the election to the county clerk within five days after such election, to be delivered by him to the commissioners court at its first meeting thereafter to be canvassed by such court. The court or its clerk shall certify the result to the district trustees and issue to the person or persons elected their commissions as trustees.

(b) In those districts having 150 or more scholastics, according to the latest approved scholastic census, the election returns certified to by the election officers shall be made to the board of school trustees which shall canvass the returns, declare the results of the election, and issue certificates of election to the persons shown to be elected.

Amended by Acts 1971, 62nd Leg., p. 902, ch. 128, § 4, eff. Aug. 30, 1971.

§ 23.11. Election by Position

* * * * *

(c) The positions on the board of trustees shall be designated by number in any independent school district in which the scholastic population is 150 or more according to the latest approved scholastic census and in which the board of trustees, by appropriate action as specified below, orders that all candidates for trustee be voted upon and elected separately for positions on the board of trustees and that all candidates be designated on the official ballot according to the number of the positions for which they seek election.

* * * * *

(h) The board may also provide by resolution, at least 60 days prior to the election, that if no candidate for a position receives a majority of the votes cast for that position the board will order a runoff election to be held not more than 30 days after the date of the first election. At that runoff election, the names of the two persons receiving the highest number of votes for that position in the first election shall be placed on the ballot.

Subsec. (c) amended by Acts 1971, 62nd Leg., p. 903, ch. 128, § 5, eff. Aug. 30, 1971; Subsec. (h) added by Acts 1971, 62nd Leg., p. 2410, ch. 760, § 1, eff. Aug. 30, 1971.

SUBCHAPTER E. SCHOOL DEPOSITORY ACT

§ 23.77. Bid Notices; Bid Form

The board of trustees of any school district adopting this subchapter shall, at least 30 days prior to the termination of the then current depository contract, mail to each bank located in said school district, if any, otherwise to each of the banks located in an adjoining school district, a notice stating the time and place in which bid applications will be received for school depository. Attached to said notice shall be a uniform bid blank which shall be substantially in the following form:

Board of Trustees

_____ School District

Gentlemen:

The undersigned, a state or national banking corporation, hereinafter called bidder, for the privilege of acting as Depository of the _____ School District of _____ County, Texas, hereinafter called District, for a term of two years, beginning September 1, 19____, and ending August 31, 19____, and for the further privilege of receiving all funds or only certain funds to be designated by the District if more than one depository is selected, at its option to place on demand or interest bearing time deposits as provided in the School Depository Act, bidder will pay District as follows:

1. _____% interest per annum compounded quarterly on time deposits having a maturity date 90 days or more after the date of deposit or payable upon written notice of 90 days or more.

2. _____% interest per annum compounded quarterly on time deposits having a maturity date less than 90 days after the date of deposit or payable upon written notice of less than 90 days.

3. _____% interest rate to be paid by District to Bidder on overdrafts or their equivalent. (Overdraft as used in this paragraph shall mean that District does not have a compensating balance in other funds or accounts in the then current school year in Bidder's bank.)

4. Bidder will charge District \$_____ for keeping District's deposit records and accounts for the period covered by this bid. Included in and required as a part of this duty are the following:

(a) Preparation of monthly statements showing debits, credits and balance of each separate fund.

(b) Preparation of all accounts, reports, and records as provided in Section 21.256, Texas Education Code.

(c) Preparation of such other reports, accounts and records which may, from time to time, be required by District in order to properly discharge the duties as provided by law of Depository.

(d) Furnishing of the quantity, quality and type of checks necessary for District's use during the period for which this bid is submitted.

5. District reserves the right to invest any and all of its funds in bonds of the United States of America or other type of bonds, securities, certificates, warrants, etc., which District is authorized by law to invest

in. Bidder will and shall aid and assist District in any investment without charge.

6. Bidder shall furnish to District a bond in the amount and conditioned as provided in The School Depository Act, or in lieu thereof pledged approved securities in an amount sufficient as determined by the Board of Trustees of District to adequately protect the funds of the District deposited with Bidder. District reserves the right to alter from time to time the required amount of securities to be sufficiently adequate to protect said funds and to approve or reject the securities so pledged. Bidder shall have the right and privilege of substituting securities upon obtaining the approval of District, provided the total amount of securities deposited is adequate as herein provided.

7. This bid was requested by District and is made by Bidder with the expressed agreement and understanding that District reserves the right to reject any and all bids and the further right that if any portion or provision of this bid and/or any contract between Bidder and District entered into by virtue thereof is invalid, the remainder of this bid and/or resulting contract at the option of the District shall remain in full force and effect, and not be affected by said invalid portion or provision.

8. Attached hereto is certified, or Cashier's Check in the sum of \$_____ payable to the _____ School District. If this bid to be Depository of all District funds or to be Depository of only a designated amount of said funds, is accepted, said check is to secure the performance of said bid, and if Bidder fails to enter into a contract with District as provided in bid, then said check shall be retained by District as liquidated damages for said failure. In the event this bid is not accepted, the above check is to be returned to the Bidder immediately after the award is made.

DATED this the _____ day of _____, 19____.
BIDDER _____
BY _____
TITLE _____

Amended by Acts 1971, 62nd Leg., p. 3011, ch. 994, § 12, eff. Aug. 30, 1971.

SUBCHAPTER F. ASSESSMENT AND COLLECTION OF TAXES

§ 23.95. Appointment of Assessor Only

* * * * *

(e) When the assessor and collector of an incorporated city, or town, is required to assess and collect the taxes of independent school districts, the board of trustees of such school districts may contract with the governing body of said city for payment for such services as they may see fit to allow, not to exceed the actual cost incurred in assessing and collecting said taxes. The property of such districts having their taxes assessed and collected by the city assessor-collector may be assessed at a greater value than that assessed for city purposes, and in such cases the city tax assessor-collector may assess the taxes for said district on separate assessment blanks furnished by said district and shall prepare the rolls for said district in accordance with the assessment values which have been equalized by the Board of Trustees for that purpose.

Subsec. (e) amended by Acts 1971, 62nd Leg., p. 3012, ch. 994, § 13, eff. Aug. 30, 1971.

* * * * *

§ 23.98. Enforced Collection

(a) Any independent school district may contract with any competent attorney of this state for the collection of delinquent taxes for the independent school district and compensate him for his services in an amount not to exceed that allowed attorneys collecting delinquent taxes for the state and county.

(b) Any independent school district which contracts for the collection of delinquent taxes under Subsection (a) may use the contract form set out in this subsection.

"CONTRACT FOR THE COLLECTION OF
DELINQUENT TAXES

THE STATE OF TEXAS }
COUNTY OF _____ }

THIS CONTRACT is made and entered into by and between the _____, acting herein by and through its governing body, hereinafter called First Party, and _____, hereinafter styled Second Party.

I.

First Party agrees to employ and does hereby employ Second Party to enforce by suit or otherwise the collection of all delinquent taxes, penalty and interest owing to First Party, provided current year taxes falling delinquent within the period of this contract shall become subject to its terms on the first day of delinquency.

II.

Second Party is to call to the attention of the collector or other officials any errors, double assessments or other discrepancies coming under his observation during the progress of the work, and is to intervene on behalf of First Party in all suits for taxes hereafter filed by any taxing unit on property located within its corporate limits.

III.

First Party agrees to furnish delinquent tax statements to Second Party on all property within the taxing jurisdiction. Second Party will furnish forms for said statements on request and will assume responsibility for having penalty and interest computed on statements before such statements are mailed to property owners.

IV.

Second Party agrees to file suit on and reduce to judgment and sale the vacant and uninhabited property located within the taxing jurisdiction provided First Party will furnish the necessary data and information as to the name, identity, and location of the necessary parties, and legal description of the property to be sold. Second Party agrees to sue for recovery of the costs as court costs as provided by Article 7345b, Section 6, Revised Civil Statutes of Texas.

V.

Second Party agrees to make progress reports to First Party on request, and to advise First Party of all cases where investigation reveals taxpayers to be financially unable to pay their delinquent taxes.

VI.

First Party agrees to pay to Second Party as compensation for services required hereunder fifteen (15) percent of the amount collected of all delinquent taxes, penalty and interest of the years covered by this contract, actually collected and paid to the collector of taxes during the term of this contract as and when collected. All compensation above provided for shall become the property of the Second Party at the time payment of taxes, penalty and interest is made to the collector. The collector shall pay over said funds monthly by check.

VII.

This contract is drawn to cover a period of two years beginning _____ and ending _____, provided however that Second Party shall have an additional six months to reduce to judgment all suits filed prior to the date last mentioned. In consideration of the terms and compensation herein stated, Second Party hereby accepts said employment and undertakes the performance of this contract as above written.

VIII.

This contract is executed on behalf of First Party by the presiding officer of its governing body who is authorized to execute this instrument by order heretofore passed and duly recorded in its minutes.

WITNESS the signatures of all parties hereto in duplicate originals this the _____ day of _____ A.D. 197____, _____ County, Texas.

THE _____
BY _____

Licensed Attorney at Law"

(c) The Texas Education Agency shall upon request provide copies of the permissive contract set out in Subsection (b), and shall disseminate to all independent school districts information concerning the existence and use of the permissive contract form.

(d) This section is cumulative of other laws and shall be construed to provide an additional method for employment of attorneys by independent school districts for the collection of delinquent taxes.

(e) In the enforced collection of taxes the board of trustees of the independent school district shall perform the duties which devolve in such cases upon the city council of an incorporated city or town; the president of the board of trustees shall perform the duties which devolve in such cases upon the mayor of an incorporated city or town; and the county attorney of the county in which the district is located or the city attorney of the incorporated city in which the district or a part thereof is located shall when instructed perform the duties which in such cases devolve upon the city attorney of an incorporated city or town under the provisions of the law applicable thereto.

Amended by Acts 1971, 62nd Leg., p. 1516, ch. 405, § 46, eff. May 26, 1971.

SUBCHAPTER G. INCENTIVE AID PAYMENTS

Subchapter G consisting of §§ 23.991 to 23.998 was added by Acts 1971, 62nd Leg., p. 3007, ch. 994, § 14, effective August 30, 1971.

§ 23.991. Incentive Aid

Independent school districts created after August 22, 1963, through consolidation may qualify for incentive aid payments by the State of Texas; provided, however, no school district may receive such payments for a period of more than 10 years. Such incentive aid payments shall be made only upon application to the Texas Education Agency and in compliance with the terms and conditions contained in this section.

§ 23.992. Amount; Computation

(a) The amount of incentive aid payments shall not exceed the difference between the sum of the Foundation Program Payments which would have been paid to the several districts included in the newly organized district had there been no consolidation, and the amount of Foundation Program Assistance for which the new district qualifies. Where, however, such newly organized district is budget balance (not eligible for Foundation Program Payments) the amount of the incentive aid payments shall not exceed the sum of the Foundation Program Payments for which the several districts included in the newly organized district were eligible in the scholastic year when they were consolidated.

(b) Where there have been, or hereafter may be one, or a series of consolidations at intervals in compliance with and pursuant to the provisions of this subchapter, the lastly created or newly organized independent school district shall be eligible to receive at due times the total sum of the series of incentive aid payments as computed separately at the time of the several consolidations, subject to provisions in this subchapter. With respect to all such consolidations effected before March 22, 1965, the 10-year payment period shall be computed from the date of consolidation, or from March 22, 1965, whichever is the latest.

§ 23.993. Minimum ADA

The new district created through consolidation shall contain not fewer than 750 children in average daily attendance or a majority of the children in average daily attendance in the county containing the majority of the land area involved in the reorganization.

§ 23.994. Use Restricted

The incentive aid payments shall be used exclusively to retire the existing bonded indebtedness of the school districts which have been consolidated, or shall be applied to the cost of constructing new buildings required by the reorganized district.

§ 23.995. Payments Reduced

The incentive aid payments shall be reduced in direct proportion to any reduction in the annual average daily attendance of the reorganized school district for the preceding year.

§ 23.996. Consolidation Defined

"Consolidation" for purposes of this subchapter shall mean and have application to creation of new districts by election under school district consolidation laws and/or by enlargement of existing districts by annexation thereto of entire contiguous district or districts, other than dormant districts, under annexation laws, and where the district consolidated by election or enlarged by annexation under such laws results as an independent school district.

§ 23.997. Conditions Precedent to Payment

As a condition precedent to receiving incentive aid payments (1) the geographical limits of the proposed consolidated district shall be submit-

ted to the Texas Education Agency for approval and the geographical limits so approved shall be set forth in the petition for any consolidation election; and (2) the consolidation of the school districts shall result in the formation of an independent school district.

§ 23.998. Cost

The cost of incentive aid payments hereby authorized shall be paid from the Foundation School Fund. Such costs shall be considered and included by the Foundation School Fund Budget Committee in estimating the funds needed for purposes of the Foundation School Program and such incentive aid payments.

§ 23.999. Consolidation of County-Line Districts

Hereafter, where two or more contiguous county-line independent school districts, each of which is an accredited 12-grade independent school district, are consolidated and the resulting county-line independent school district so created contains fewer than 750 children in average daily attendance, such a district, subject to approval of the commissioner of education, may qualify and shall be eligible for incentive aid payments authorized by and pursuant to other applicable provisions of the incentive aid law. (H.B.No.854, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3344, ch. 1024, Art. 2, § 15, eff. Sept. 1, 1971.

CHAPTER 26. REHABILITATION DISTRICTS FOR HANDICAPPED PERSONS

SUBCHAPTER D. POWERS AND DUTIES

§ 26.64. Admission

* * * * *

(b) No handicapped person shall be admitted into a rehabilitation district whose parent or guardian, or who himself, if without a parent or guardian, does not reside within the district, unless full remuneration be received from his home county, family, or other sources.

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1518, ch. 405, § 47, eff. May 26, 1971.

* * * * *

§ 26.65. Special Education Personnel

(a) To provide for the continuance of additional programs of instruction and training for handicapped persons between the ages of 6 and 21, inclusive, the District shall be eligible for and allotted administrative units, special service personnel, exceptional child teacher units, vocational education units, and other special education personnel, to the extent herein provided for independent school districts, directly through the Foundation Program of the Central Education Agency.

(b) The basis for establishing, operating, and the formula, to be used for determining allocation of said exceptional teacher units, vocational education units, and other special education personnel, shall be as required by the Central Education Agency of independent school districts except that the district's allocation shall be limited, computed upon, and restricted to include only exceptional children between the ages of 14 and 21, both inclusive. However, no local fund assignment shall be charged to a rehabilitation district.

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 1518, ch. 405, § 48, eff. May 26, 1971; Acts 1971, 62nd Leg., p. 2810, ch. 912, § 1, eff. Sept. 1, 1971; Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1518, ch. 405, § 48, eff. May 26, 1971.

* * * * *

Section 2 of Acts 1971, 62nd Leg., p. 2810, shall become effective for the scholastic ch. 912, provided: "Providing that the year beginning September 1, 1971, and amendment set out in Section 1 of this Act thereafter."

§ 26.66. Tuition; Fees

The board may fix such fees and tuition rates as are deemed necessary to supplement other sources of funds for maintaining and operating the district in carrying out its functions, with authority, however, to reduce fees and tuitions or waive them altogether in cases where the parents or guardians of the trainees are able to pay a portion only or none of such tuition or fees, in the judgment of the board of directors, or in the judgment of an agency created by the board of directors, to determine such matters; however, no parent or guardian of a school-age student (6 to 21 years of age) residing in the district shall pay tuition, and any fees charged by the district shall be in conformity with Texas laws governing independent school districts.

Amended by Acts 1971, 62nd Leg., p. 1518, ch. 405, § 49, eff. May 26, 1971.

CHAPTER 28. COUNTYWIDE VOCATIONAL SCHOOL DISTRICT AND TAX

§ 28.10. Eligibility to Attend School District Operating Vocational School Program; Tuition; Average Daily Attendance

* * * * *

(c) Any pupil under 21 years of age on September 1 and who has not completed the 12th grade shall be eligible to be counted in average daily attendance (ADA) for Foundation School Program purposes by the designated area school district in accordance with policies of the Central Education Agency. However, where such a pupil attends school in his home district a part of a day and attends part of a day in vocational class(es) offered only in a designated area vocational school district, his ADA shall be counted for the entire day in the home district; his state per capita, if any, to remain with the home district. Further, such a pupil shall be eligible to be counted by the designated area vocational school district for purposes of vocational teacher unit allotments pursuant to the policies and formulas adopted by the State Board of Education.

Subsec. (c) amended by Acts 1971, 62nd Leg., p. 1519, ch. 405, § 50, eff. May 26, 1971.

* * * * *

CHAPTER 29. SCHOOLS WITHIN THE DEPARTMENT OF CORRECTIONS

Section

- 29.01. Establishment and Location.
- 29.02. Eligibility of Students.
- 29.03. Board May Accept Grants.
- 29.04. Costs to be Borne by State.
- 29.05. Allocation of Costs.

Chapter 29 consisting of §§ 29.01 to 29.05 was added to this Code by Acts 1971, 62nd Leg., p. 1519, ch. 405, § 51, effective May 26, 1971.

Section 29.01. Establishment and Location

The Board of Corrections may establish and operate schools at the various units of the Department of Corrections.

§ 29.02. Eligibility of Students

All persons incarcerated in the Department of Corrections who are not high school graduates are eligible to attend such schools.

§ 29.03. Board May Accept Grants

The Board of Corrections may accept grants from both public and private organizations and expend such funds for the purposes of operating the schools.

§ 29.04. Costs to be Borne by State

The total cost of operating the schools authorized by this chapter shall be borne entirely by the state and shall be paid from the Foundation School Program Fund. Such costs shall be considered annually by the Foundation School Fund Budget Committee and included in estimating the funds needed for purposes of the Foundation School Program. No part of the operating costs herein provided for shall be charged to any of the school districts of this state.

§ 29.05. Allocation of Costs

A formula for the allocation of professional units and other operating expenses shall be developed by the Central Education Agency and approved by the State Board of Education.

CHAPTER 30. REHABILITATION OF HANDICAPPED AND DISABLED

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 30.01. Purpose.
- 30.02. Definitions.

[Sections 30.03 to 30.10 reserved for expansion]

**SUBCHAPTER B. COMMISSION FOR REHABILITATION—
CREATION; ADMINISTRATIVE PROVISIONS**

- 30.11. Creation of Commission; Composition.
- 30.12. Members of Board—Appointment, Terms, Etc.
- 30.13. Meetings.

Section

- 30.14. Expenses.
- 30.15. Advisory Committees.
- 30.16. Commissioner.
- 30.17. Administrative Regulations.
- 30.18. Planning.
- 30.19. Administrative Units; Personnel.
- 30.20. Reports.
- 30.21. Disbursement of Funds.
- 30.22. Other Duties.
- 30.23. Delegation to Employees.

[Sections 30.24 to 30.40 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

- 30.41. Commission as Principal Authority.
- 30.42. Agency Functions.
- 30.43. Cooperation With the Federal Government.
- 30.44. Obtaining Federal Funds.
- 30.45. Finances.
- 30.46. Gifts and Donations to the Commission.
- 30.47. Unlawful Use of Lists of Names.
- 30.48. Transfer From Central Education Agency.
- 30.49. Employees Membership in Retirement Systems.

[Sections 30.50 to 30.70 reserved for expansion]

SUBCHAPTER D. EXTENDED REHABILITATION SERVICES

- 30.71. Definitions.
- 30.72. Authority.
- 30.73. Administration.
- 30.74. Participant Contributions.
- 30.75. Standards.
- 30.76. Quarterly Payments.
- 30.77. Funds, Rules, and Regulations.

Chapter 30 consisting of §§ 30.01 to 30.77 was added to Title 2 of this Code by Acts 1971, 62nd Leg., p. 1520, ch. 405, § 52, effective May 26, 1971.

SUBCHAPTER A. GENERAL PROVISIONS**Section 30.01. Purpose**

It shall be the policy of the State of Texas to provide rehabilitation and related services to eligible handicapped individuals so that they may prepare for and engage in a gainful occupation or achieve maximum personal independence.

§ 30.02. Definitions

In this chapter:

- (1) "Agency" or "commission" means the Commission for Rehabilitation.
- (2) "Commissioner" means the chief administrative officer of the agency.
- (3) "Handicapped individual" means any individual, except one whose disability is of a visual nature, who has a disability which constitutes a substantial handicap to employment, or to achieving maximum personal independence, but which is of such a nature

that rehabilitation services may reasonably be expected to render him fit to engage in a gainful occupation, including a gainful occupation which is more consistent with his capacities and abilities or render him fit for self-care and independent living; and "handicapped individual" includes such an individual for whom rehabilitation services are necessary for the purposes of the determination of rehabilitation potential. "Handicapped individual" shall include individuals disadvantaged by reason of their youth or advanced age, low educational attainments, ethnic or cultural factors, prison or delinquency records, or other conditions which constitute a barrier to employment, as well as members of their families when the provision of rehabilitation services to family members is necessary for the rehabilitation of a handicapped individual.

(4) "Disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's activities or functioning. It includes behavioral disorders characterized by deviant social behavior or impaired ability to carry out normal relationships with family and community which may result from vocational, educational, cultural, social, environmental, or other factors. "Disability" includes the disadvantageous condition resulting from low educational attainment, ethnic or cultural factors, youth or advanced age, or other factors which constitute a barrier to employment or self-care and independent living.

(5) "Substantial handicap to employment" means a disability that impedes an individual's occupational performance by preventing his obtaining, retaining, or preparing for a gainful occupation consistent with his capacities and abilities.

(6) "Rehabilitation services" means any goods and services necessary to render a handicapped individual fit to engage in a gainful occupation, or independent living, or to determine his rehabilitation potential, and to provide work adjustment training or adult social services. To render a handicapped individual fit to engage in a gainful occupation or independent living, may require the agency to engage in or contract for some or all of such activities as outreach, diagnosis and appraisal, treatment, training, job placement or self-employment, guidance, and counseling. Services may include maintenance, transportation, and training allowances, not exceeding the estimated cost of subsistence during rehabilitation, for the handicapped individual as well as members of his family when necessary for the rehabilitation of the handicapped individual.

(7) "Gainful occupation" includes employment in the competitive labor market; practice of a profession; self-employment; homemaking, farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; and home industries or other gainful homebound work.

(8) "Establishment of a rehabilitation facility" means (1) the expansion, remodeling, or alteration of existing buildings, necessary to adopt or to increase the effectiveness of such buildings for rehabilitation facility purposes; (2) the acquisition of initial equipment for such purposes; or (3) the initial staffing of a rehabilitation facility.

(9) "Establishment of a workshop" means the expansion, remodeling, or alteration of existing buildings necessary to adapt such buildings to workshop purposes or to increase the employment opportunities in workshops, and the acquisition of initial equipment necessary for new workshops or to increase the employment opportunities in workshops.

(10) "Construct" includes construction of new buildings, acquisition of existing buildings, and expansion, remodeling, altera-

tion, and renovation of existing buildings, and initial equipment of such new, newly acquired, expanded, remodeled, altered, or renovated buildings.

[Sections 30.03 to 30.10 reserved for expansion]

SUBCHAPTER B. COMMISSION FOR REHABILITATION— CREATION; ADMINISTRATIVE PROVISIONS

§ 30.11. Creation of Commission; Composition

There is hereby created a Commission for Rehabilitation which shall consist of the board of the Commission for Rehabilitation, a commissioner, and such other officers and employees as may be required to efficiently carry out the purposes of this chapter.

§ 30.12. Members of Board—Appointment, Terms, Etc.

(a) The board of the Commission for Rehabilitation shall consist of six members appointed by the governor.

(b) With the advice and consent of the senate, the governor shall biennially appoint two members to serve a term of six years, except that when the six initial appointments are made, the governor shall designate two members to serve for two years, two for four years, and two for six years.

(c) The governor shall also fill by appointment for the unexpired term any vacancy on the board caused by death, resignation, or inability to serve for any reason.

(d) Members shall serve until a successor is appointed and has qualified by taking the oath of office.

(e) Appointees shall be outstanding citizens of the state who have demonstrated a constructive interest in rehabilitation services. No paid employee of any agency carrying on work for the commission shall be eligible for appointment, nor shall any person who owns or is employed by an organization providing rehabilitation services or related services through the commission.

(f) The governor shall designate one board member as chairman.

§ 30.13. Meetings

The board shall meet quarterly in regular session and on call by the chairman when necessary for the transaction of agency business.

§ 30.14. Expenses

Board members shall serve without pay but they shall be compensated for actual and necessary expenses incurred in the discharge of their official duties.

§ 30.15. Advisory Committees

(a) The board is authorized to appoint an advisory committee which shall make recommendations for consideration of the board concerning any matter which the advisory committee believes to be pertinent to the purposes of this chapter.

(b) The advisory committee shall have nine members appointed by the board, each of whom shall serve for three years and until a successor is appointed. However, when the initial appointments are made, the board shall designate three members who will be appointed for terms of one year, three members who will be appointed for terms of two years, and three members who will be appointed for terms of three years.

(c) The advisory committee shall meet at least once in each calendar quarter and may meet on call of the board.

(d) The members of the advisory committee shall serve without pay except that they are entitled to be reimbursed for actual and necessary expenses incurred in attending the official meetings of the advisory committee.

(e) The membership of the advisory committee shall be composed of citizens who have demonstrated an active and constructive interest in the rehabilitation of handicapped people.

(f) The board shall also fill, by appointment for the unexpired term, any vacancy on the advisory committee.

(g) The board is also authorized to create from time to time such additional technical advisory committees as it may deem necessary to the purposes of this chapter, the members of which shall serve without compensation unless such is specifically provided for by appropriation.

§ 30.16. Commissioner

This chapter shall be administered by the commissioner under operational policies established by the board. The commissioner shall be appointed by the board on the basis of his education, training, experience, and demonstrated ability. He shall serve at the pleasure of the board. He shall be secretary to the board, as well as chief administrative officer of the agency.

§ 30.17. Administrative Regulations

In carrying out his duties under this chapter, the commissioner shall, with the approval of the board, make regulations governing personnel standards; the protection of records and confidential information; the manner and form of filing applications, eligibility, investigation, and determination therefor for rehabilitation and other services; procedures for hearings; and such other regulations as he finds necessary to carry out the purposes of this chapter.

§ 30.18. Planning

The commissioner shall, with the approval of the board, make long-range and intermediate plans for the scope and development of the program and make decisions regarding the allocation of resources in carrying out such plans.

§ 30.19. Administrative Units; Personnel

(a) The commissioner shall, with the approval of the board, establish appropriate subordinate administrative units.

(b) The commissioner shall, under personnel policies adopted by the board, appoint such personnel as he deems necessary for the efficient performance of the functions of the agency.

§ 30.20. Reports

The commissioner shall prepare and submit to the board annual reports of activities and expenditures and, prior to each regular session of the legislature, estimates of sums required for carrying out the purposes of this chapter; and, with the approval of the board, submit such reports to the governor and the legislature.

§ 30.21. Disbursement of Funds

The commissioner shall make certification for disbursement, in accordance with regulations, of funds available for carrying out the purposes of this chapter.

§ 30.22. Other Duties

The commissioner shall take such other action as he deems necessary or appropriate to carry out the purposes of this chapter.

§ 30.23. Delegation to Employees

The commissioner may, with the approval of the board, delegate to any officer or employee of the agency such of his powers and duties, except the making of regulations and the appointment of personnel, as he finds necessary to carry out the purposes of this chapter.

[Sections 30.24 to 30.40 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 30.41. Commission as Principal Authority

The Commission for Rehabilitation is the principal authority in the state on matters relating to rehabilitation of handicapped and disabled individuals, except for those matters relating to individuals whose handicaps or disabilities are of a visual nature. All other state agencies engaged in rehabilitation activities and related services to individuals whose handicaps or disabilities are not of a visual nature shall coordinate those activities and services with the commission.

§ 30.42. Agency Functions

The agency shall, to the extent of resources available and priorities established by the board, provide rehabilitation services directly or through public or private resources to individuals determined by the commissioner to be eligible therefor, and in carrying out the purposes of this chapter, the agency is authorized:

(1) to cooperate with other departments, agencies, political subdivisions, and institutions, both public and private, in providing the services authorized by this chapter to eligible individuals, in studying the problems involved therein, and in planning, establishing, developing, and providing such programs, facilities, and services as may be necessary or desirable, including those jointly administered with state agencies;

(2) to enter into reciprocal agreements with other states;

(3) to establish or construct rehabilitation facilities and workshops; to make grants to public agencies; to make contracts or other arrangements with public and other nonprofit agencies, organizations, or institutions for the establishment of workshops and rehabilitation facilities; and to operate facilities for carrying out the purposes of this chapter;

(4) to conduct research and compile statistics relating to the provisions of services to or the need for services by disabled individuals;

(5) to provide for the establishment, supervision, management, and control of small business enterprises to be operated by severely handicapped individuals where their operation will be improved through the management and supervision of the agency; and

(6) to contract with schools, hospitals, private industrial firms, and other agencies and with doctors, nurses, technicians, and other persons for training, physical restoration, transportation, and other rehabilitation services.

§ 30.43. Cooperation With the Federal Government

The agency shall make agreements, arrangements, or plans to cooperate with the federal government in carrying out the purposes of this chapter or of any federal statutes pertaining to rehabilitation, and to this end may adopt such methods of administration as are found by the federal government to be necessary, and not contrary to existing state laws, for the proper and efficient operation of such agreements, arrangements, or plans for rehabilitation.

§ 30.44. Obtaining Federal Funds

The agency is authorized to comply with such requirements as may be necessary to obtain federal funds in the maximum amount and most advantageous proportion possible.

§ 30.45. Finances

The state treasurer is hereby authorized to receive all monies appropriated by Congress and allotted to Texas for carrying out the purposes of this chapter or agreements, arrangements, or plans authorized thereby; and to make disbursements therefrom upon the certification

of the commissioner. All public monies available to the agency shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as provided by law for other public funds in the state treasury. The state auditor shall regularly audit all accounts established by the commission in local depositories, to assure that nonpublic funds made available to the commission through gift or bequest, by local organizations desiring to participate in projects for the handicapped authorized in Article XVI, Section 6, Subsection (b), of the Texas Constitution, or by endowment or otherwise, are expended in a manner consistent with the purposes of this chapter, and the commission shall comply with such reporting procedures as the state auditor might prescribe for the commission's acceptance, holding, investment, and use of nonpublic funds.

§ 30.46. Gifts and Donations to the Commission

The commission is authorized to receive and use gifts and donations for carrying out the purposes of this chapter. No person shall ever receive any payment for solicitation of any funds.

§ 30.47. Unlawful Use of Lists of Names

It shall be unlawful, except for purposes directly connected with the administration of the rehabilitation program and in accordance with regulations, for any person or persons to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any list of, or names of, or any information concerning, persons applying for or receiving rehabilitation, directly or indirectly derived from the records.

§ 30.48. Transfer From Central Education Agency

All functions of the division of vocational rehabilitation and the division of disability determination of the Central Education Agency, together with all personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available are hereby transferred to the agency on September 1, 1969. Wherever under existing statutes, duties, obligations, and responsibilities are placed upon the division of vocational rehabilitation or the division of disability determination of the Central Education Agency or duties, obligations, and responsibilities relating to vocational rehabilitation of the handicapped individual are imposed upon the State Board for Vocational Education, such duties, obligations, and responsibilities shall hereafter be assumed and carried out by the commission. All contracts and agreements between the Central Education Agency and the Social Security Administration relating to the activities of the division of vocational rehabilitation and the division of disability determination of the Central Education Agency shall be continued for the benefit of the commission.

§ 30.49. Employees Membership in Retirement Systems

Personnel of the division of vocational rehabilitation and the division of disability determination of the Central Education Agency hereby transferred to the commission shall have the option of retaining membership in the Teacher Retirement System of Texas or becoming members of the Employees Retirement System of Texas under the provisions of Chapter 75, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 6228a—2, Vernon's Texas Civil Statutes). Employees hired after the transfer shall be members of the Employees Retirement System of Texas.

[Sections 30.50 to 30.70 reserved for expansion]

SUBCHAPTER D. EXTENDED REHABILITATION SERVICES**§ 30.71. Definitions**

As used in this subchapter:

(1) "Extended rehabilitation services" means supplying rehabilitation services to (A) a mentally or physically handicapped person beyond a period of 18 months from the initial date that eligibility to receive vocational rehabilitation services was determined, or (B) mentally or physically handicapped persons who were not eligible for vocational rehabilitation services under laws and regulations in effect before April 2, 1969, and who could benefit from the provisions of this subchapter.

(2) "Extended sheltered workshop employment" means employment in a sheltered workshop of persons with mental or physical handicaps of such a nature that by reason of such handicap such persons are rendered incapable of competing in the open or customary labor market.

(3) "Extended community residence" means a group living arrangement providing the essentials of community living, such as room, board, clothing, evening and nighttime supervision, recreational activities, and transportation to and from work for persons living therein who are in extended sheltered workshop employment as that term is defined herein, or who, while physically or mentally handicapped, are employed in the open or customary labor market.

(4) "Sheltered workshop" means an occupation-oriented facility operated by a not-for-profit agency, public or private, which except for its staff, employs only mentally or physically handicapped persons.

§ 30.72. Authority

The commission is granted the additional authority to plan, institute, support, and maintain the programs of extended rehabilitation, including extended employment in a sheltered workshop and extended community residence, provided for in this subchapter.

§ 30.73. Administration

The commission may contract with any not-for-profit agency, public or private, for the provision of any extended rehabilitation services, including extended sheltered workshop employment or extended community residence for persons participating in vocational rehabilitation, and pay for such services purchased for the state.

§ 30.74. Participant Contributions

Any handicapped person in vocational rehabilitation and living in an extended community residence facility operated by a not-for-profit agency having a contract under this subchapter shall contribute to such not-for-profit agency from his personal earnings, if any, such portions of his earnings, after deductions for personal use, as he may be able to contribute and as may be required by rules and regulations of the commission. The earnings contributions made under this section by individuals' participation in vocational rehabilitation shall be credited to the state, in arriving at the net sums due to the not-for-profit agency contracting with the state to furnish services.

§ 30.75. Standards

The commission shall establish standards of staffing, physical plant, and services required for the operation of facilities of not-for-profit agencies furnishing services under this subchapter by contract with the state. Any contract entered into by the state under this subchapter shall be subject to cancellation by the state for cause at any time by the issuance of written notice of cancellation by the state to the contracting agency at least 30 days in advance of the date of cancellation.

§ 30.76. Quarterly Payments

The commission shall pay, from funds available to it for this program, on a quarterly basis to a not-for-profit agency an amount equal to not less than (a) \$3 per six-hour working day per client to a sheltered workshop and/or (b) \$85 per client per month to an extended community residence.

§ 30.77. Funds, Rules, and Regulations

The commission may receive and expend funds from any source, public or private, for the purposes set forth in this subchapter, and shall establish rules and regulations for the conduct and control of the programs authorized by this subchapter. Any not-for-profit agency operating an extended community residence facility under this subchapter shall file annually its budget showing salaries paid and expenditures with the office of the state auditor.

CHAPTER 31. TECHNICAL-VOCATIONAL EDUCATION
ACT OF 1969

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 31.01. Short Title.
- 31.02. Purpose.
- 31.03. Definitions.

[Sections 31.04 to 31.10 reserved for expansion]

SUBCHAPTER B. ADVISORY COUNCIL—CREATION;
ADMINISTRATIVE PROVISIONS

- 31.11. Creation.
- 31.12. Membership.
- 31.13. Terms.
- 31.14. Chairman; Officers.
- 31.15. Meetings.
- 31.16. Expenses.
- 31.17. Committees.
- 31.18. Procedural Rules; Hearings.
- 31.19. Staff; Consultants.

[Sections 31.20 to 31.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

- 31.31. Principal Functions and Purposes.
- 31.32. Replacement of Prior Council.
- 31.33. Duties.
- 31.34. Studies; Reports.
- 31.35. Public-Private Cooperation.
- 31.36. Assistance of State Agencies.
- 31.37. Contracts.
- 31.38. Gifts, Grants.
- 31.39. Status of Recommendations.
- 31.40. Allocation of State and Federal Funds.
- 31.41. Financial Reporting.

[Sections 31.42 to 31.70 reserved for expansion]

SUBCHAPTER D. ASSOCIATE COMMISSIONER FOR OCCUPATIONAL EDUCATION AND TECHNOLOGY

Section

31.71. Associate Commissioner.

[Sections 31.72 to 31.80 reserved for expansion]

SUBCHAPTER E. JOINT COMMITTEE

31.81. Creation of Joint Committee; Purpose.

31.82. Composition.

31.83. Duties.

Chapter 31 consisting of §§ 31.01 to 31.83 was added to Title 2 of this Code by Acts 1971, 62nd Leg., p. 1527, ch. 405, § 53, effective May 26, 1971.

SUBCHAPTER A. GENERAL PROVISIONS

Section 31.01. Short Title

This chapter may be cited as the Technical-Vocational Education Act of 1969.

§ 31.02. Purpose

The purpose of this chapter is to provide the necessary legal basis to establish a state educational system which will develop trained personnel in the area of technical and vocational skills, and to accommodate the social and economic needs of the people of the State of Texas. Further, it is the purpose of this chapter to comply in all respects with the Vocational Education Act of 1963, as amended,¹ including those advisory functions therein specified. It is further the purpose of this chapter to establish as a part of the total educational system of the State of Texas, one council responsible for the development of a program to train manpower, through education, to further industrial and economic development in the State of Texas.

¹ See 20 U.S.C.A. § 1241 et seq.

§ 31.03. Definitions

In this chapter:

(1) "Advisory council" or "council" means the Advisory Council for Technical-Vocational Education.

(2) "Secondary schools" means those schools supported by the Permanent School Fund or as provided for in Article VII, Section 1, of the Texas Constitution.

(3) "Public junior college" means any public junior college in Texas which may be certified for state appropriations, as provided by Chapter 487, Acts of the 54th Legislature, 1955, as amended (Article 2919e—2, Vernon's Texas Civil Statutes¹), or as may be subsequently provided for by the legislature.

(4) "Public senior college or university" means any general academic teaching institution, as defined by Chapter 487, Acts of the 54th Legislature, 1955, as amended (Article 2919e—2, Vernon's Texas Civil Statutes), or as may be subsequently provided for.

(5) "Associate commissioner" means the associate commissioner for occupational education and technology.

(6) "Postsecondary education" means education provided in any public junior college, technical institute, or public senior college or university.

(7) "Apprenticeship" means apprentice training, trade extension, and all postsecondary technical and occupational training programs

operated by public schools and not being serviced by public junior colleges, technical institutes, senior colleges, or universities.

¹ Repealed. See, now, § 61.001 et seq.

[Sections 31.04 to 31.10 reserved for expansion]

SUBCHAPTER B. ADVISORY COUNCIL—CREATION; ADMINISTRATIVE PROVISIONS

§ 31.11. Creation

There is hereby established a council known as the Advisory Council for Technical-Vocational Education, for which offices shall be provided by the Texas Education Agency in Austin, Texas.

§ 31.12. Membership

(a) The council consists of 21 members appointed by the State Board of Education after recommendation by the governor and subject to confirmation by the Senate.

(b) The membership will be constituted as follows:

(1) one member familiar with vocational needs and the problems of management in the state;

(2) one member familiar with vocational needs and the problems of labor in the state;

(3) two members representing state industrial and economic development agencies;

(4) one member actively engaged in the administration of community or junior college vocational-technical education;

(5) one member actively engaged in technical training institutes;

(6) one member familiar with the administration of state and local technical-vocational education programs;

(7) one member having special knowledge, experience, or qualifications with respect to the administration of state and local technical-vocational education programs but who is not involved directly in the administration of such programs;

(8) one member who represents technical-vocational education at the secondary school level;

(9) one member, representative of local education agencies and school boards;

(10) one member who is familiar with the programs of teachers' training for technical-vocational teachers in the post-secondary institutions;

(11) one member who is familiar with post-secondary baccalaureate technological degree programs;

(12) one member representative of comprehensive area manpower planning systems of the state;

(13) one member representative of those school systems with large concentrations of academically, socially, economically, or culturally disadvantaged students;

(14) one member having special knowledge, experience, or qualifications with respect to the special educational needs of the physically or mentally handicapped persons;

(15) one member having special knowledge, experience, or qualifications with respect to the locally administered manpower programs sponsored by organizations having voting representatives of the socioeconomically disadvantaged in their policy-making bodies;

(16) four members representing a cross section of industrial, business, professional, agricultural, and health service occupations; and

(17) one member representing the general public.

§ 31.13. Terms

Except for the initial appointees, members of the council hold office for staggered terms of six years. Initial appointment of the council shall

be made on or immediately following September 1, 1969. Seven appointments will be made for the term which shall expire August 31, 1971; seven appointments will be made for the term which will expire August 31, 1973, and seven appointments will be made for the term which shall expire August 31, 1975, or at the time their successors are appointed and qualified.

§ 31.14. Chairman; Officers

The council shall elect annually from among its members a chairman and any other officers it considers necessary.

§ 31.15. Meetings

(a) The majority of the membership of the council shall constitute a quorum at meetings.

(b) The first meeting of the council shall be called by the governor as soon as the membership of the council is complete. Thereafter, the council will hold regular quarterly meetings, in the city of Austin, and at other times and places as shall be scheduled by it in formal session, as provided by the statutes of the State of Texas or as shall be called by the chairman of the council.

(c) Agenda for the meetings, in sufficient detail to indicate the items on which final action is contemplated, will be made available to the public and interested parties at least 30 days prior to each meeting.

§ 31.16. Expenses

Members of the council shall serve without pay, but shall be reimbursed for their actual expenses while attending meetings or for such work of the council as is approved by the chairman of the council.

§ 31.17. Committees

The chairman of the council may appoint such committees of the council or such advisory committees as the council shall deem necessary, from time to time.

§ 31.18. Procedural Rules; Hearings

(a) The council shall adopt and publish rules of procedure for the orderly transaction of its business and shall establish and publish rules and regulations in accordance with, and under the conditions applied to other agencies, by Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252-13, Vernon's Texas Civil Statutes), to effectuate the provisions of this chapter.

(b) The council shall grant any educational institution within its purview a hearing upon request and after reasonable notice.

§ 31.19. Staff; Consultants

The council shall employ such professional and clerical personnel and consultants as are necessary to perform the duties assigned by this chapter.

[Sections 31.20 to 31.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 31.31. Principal Functions and Purposes

(a) It is the purpose of the advisory council to cause to be established a climate conducive to the development of technical, vocational, and manpower training in educational institutions in the State of Texas to meet the needs of industrial and economic development of the state.

(b) The council is responsible for planning, recommending, and evaluating educational programs in the vocational, technical, adult education, and manpower training areas at the state level in the public secondary and postsecondary educational institutions and other institutions; and other boards or agencies will act upon these matters after receiving recommendations from the council, except as may be precluded by the constitution or the laws of the State of Texas.

(c) The council shall perform only such functions as are herein enumerated and those as may be assigned to it by the legislature or the governor.

(d) It will be the function of this council to recommend the coordination and implementation of programs of training consistent with the purpose of this chapter, and subject to the approval of the State Board for Vocational Education.

§ 31.32. Replacement of Prior Council

The council replaces and supersedes the State Advisory Council on Vocational Education appointed by the State Board of Education.

§ 31.33. Duties

The council shall be the advisory council to the State Board for Vocational Education and shall:

(1) recommend and evaluate the role and scope of secondary institutions, public junior colleges, community colleges, technical training institutes, and public senior colleges and universities in a comprehensive plan for developing manpower education and training in the State of Texas;

(2) recommend the appropriate subjects to be taught at each level of training and in each of the above types of institutions;

(3) recommend a state plan designating the method and the criteria to be utilized in establishing area technical schools which will be consistent with the Vocational Educational Act of 1963, as amended,¹ the Manpower Development and Training Act of 1962, as amended,² and other federal statutes;

(4) recommend and evaluate a list of courses offered by these types of institutions eligible to be funded by the legislature or through the allocation of federal funds. These courses shall be freely transferable among the public institutions in the State of Texas, with credit for such courses to be given on the same basis as if they had been taken at the receiving institutions;

(5) recommend to the governor and the legislature methods of funding existing programs and propose methods for funding new programs;

(6) suggest and evaluate pilot projects and present recommendations to the governor and the legislature for implementing cooperative programs among the several types of institutions named hereinabove, which will provide a more effective and efficient method of supplying business and industry with trained manpower;

(7) recommend the establishment of the responsibility of public schools, public junior colleges, community colleges, technical training institutes, and public senior colleges and universities in adult basic education, adult technical education, and adult vocational education;

(8) recommend, encourage, and evaluate cooperative programs between educational institutions and industry, and, with the assistance of industry, assist in the development of new curricula and instructional materials as may be required for new and emerging occupational categories as may be prescribed by industry;

(9) provide up-to-date statistical data on employment opportunities in the Texas economy to persons trained in these institutions through cooperation with the Texas Employment Commission and other appropriate research agencies at both the state and national levels;

(10) recommend a state plan for the development of a comprehensive manpower program in conjunction with the Manpower Development and Training Act of 1962, as amended;

(11) recommend the state plan, training institutions, and means of coordination of manpower training as provided in the Manpower Development and Training Act of 1962, as amended; and

(12) recommend research projects as may be necessary to implement and improve a statewide system of technical, vocational, and manpower training from funds provided by appropriations from the United States Congress or private gifts, grants, or awards;

(13) recommend and evaluate a program of teacher certification for instructors of occupational training courses; and

(14) recommend and evaluate a statewide plan for the development of a comprehensive program of apprenticeship training.

¹ See 20 U.S.C.A. § 1241 et seq.

² 42 U.S.C.A. § 2571 et seq.

§ 31.34. Studies; Reports

(a) The council shall make certain studies on its own initiative regarding a system of technical, vocational, adult education, and manpower training in the State of Texas and shall furnish reports and make such studies as may be requested by the governor or the Legislative Budget Board.

(b) The council shall make a report of its activities to the governor annually, and to the legislature not later than December 1 prior to the regular session of the legislature.

§ 31.35. Public-Private Cooperation

The council shall encourage cooperation between public and private institutions wherever possible.

§ 31.36. Assistance of State Agencies

The Texas Education Agency, the Coordinating Board, Texas College and University System, the Texas Employment Commission, and all other state boards and agencies are directed to cooperate with the advisory council and to supply such information and material as requested by the council.

§ 31.37. Contracts

In achieving the goals outlined in this chapter and the performing of functions assigned to it, the council may contract with any other state governmental agency as authorized by law, with any agency of the United States government, and with corporations and individuals. The council shall propose, foster, and encourage the use of interagency contracts among the educational institutions to reduce duplication and to achieve better utilization of personnel and facilities.

§ 31.38. Gifts, Grants

The council may accept gifts, grants, or donations of personal property from any individual, group, association, or corporation or the United States government, subject to such limitations or conditions as may be provided by law, and provided that gifts, grants, or donations of money shall be deposited with the state treasury and expended in accordance with the specific purpose for which given under such conditions as may be imposed by the donor and as provided by law.

§ 31.39. Status of Recommendations

(a) It is recognized that the State Board for Vocational Education is vested with the final authority to accept or reject the recommendations of the advisory council.

(b) Recommendations of the advisory council submitted to the State Board for Vocational Education must be acted upon, and either accepted or rejected.

(c) Any recommendations which are rejected must be returned immediately to the advisory council.

§ 31.40. Allocation of State and Federal Funds

The State Board for Vocational Education shall have the authority to allocate, as provided herein, funds appropriated by the legislature and

funds of the United States government received by the State of Texas under the Vocational Education Act of 1963, as amended,¹ and the Manpower Development and Training Act of 1962, as amended,² or other such federal statutes, as may come under its jurisdiction. Only institutions and programs approved by the State Board of Education or the Coordinating Board, Texas College and University System, will be eligible for the distribution of such funds; such program approvals shall include all those previously approved including industrial arts.

¹ See 20 U.S.C.A. § 1241 et seq.

² 42 U.S.C.A. § 2571 et seq.

§ 31.41. Financial Reporting

All financial reporting for postsecondary institutions shall be the same as that prescribed in the Uniform Reporting System provided in Chapter 487, Acts of the 54th Legislature, 1955, as amended (Article 2919e—2, Vernon's Texas Civil Statutes¹), adopted by the Coordinating Board, Texas College and University System. The council will obtain student enrollment data and instructional data and financial data gathered by the Uniform Reporting System established by the Coordinating Board, Texas College and University System, or by the Texas Education Agency, whichever may be applicable.

¹ Repealed. See, now, § 61.001 et seq.

[Sections 31.42 to 31.70 reserved for expansion]

SUBCHAPTER D. ASSOCIATE COMMISSIONER FOR OCCUPATIONAL EDUCATION AND TECHNOLOGY

§ 31.71. Associate Commissioner

(a) There is hereby created the position of associate commissioner for occupational education and technology within the Texas Education Agency.

(b) The associate commissioner shall be a person of high professional qualifications, having a thorough background of training and experience in the fields of technical, vocational, adult, and manpower education and training, and shall possess such other qualifications as the commissioner of education may prescribe.

(c) The associate commissioner shall be selected by the commissioner of education with the advice and consent of the State Board of Education.

(d) The associate commissioner will publish annually and make available to public institutions of education provided for in this chapter a certified list of courses for which funds may be made available in accordance with the appropriations of the legislature. Only those courses which appear on the certified list will be approved for appropriations or allocations of funds.

[Sections 31.72 to 31.80 reserved for expansion]

SUBCHAPTER E. JOINT COMMITTEE

§ 31.81. Creation of Joint Committee; Purpose

There is hereby created a joint committee for the purpose of advising the two participating boards, the State Board for Vocational Education and the Coordinating Board, Texas College and University System, in coordinating approval and funding of vocational-technical-occupational programs and vocational-technical teacher education programs offered or proposed to be offered in the colleges and universities of this state.

§ 31.82. Composition

The committee is to be composed of three members from the State Board for Vocational Education appointed by the chairman of the board, three members from the Coordinating Board, Texas College and University System, appointed by the chairman of the coordinating board, and three members from the advisory council appointed by the chairman of the advisory council, so that program approval and program funding may be compatible endeavors.

§ 31.83. Duties

The committee shall hold regularly scheduled meetings for the purpose of coordinating and developing planning efforts of the two boards, their staffs, and advisory personnel through the exchange of information and through the development of suggestions and recommendations.

CHAPTER 32. TEXAS PROPRIETARY SCHOOL ACT**SUBCHAPTER A. TITLE AND PURPOSE****Section**

- 32.01. Short Title.
- 32.02. Purpose and Objectives.

SUBCHAPTER B. GENERAL PROVISIONS

- 32.11. Definitions.
- 32.12. Exemptions.

SUBCHAPTER C. GENERAL POWERS AND DUTIES

- 32.21. Central Education Agency.
- 32.22. The State Board of Education.
- 32.23. Proprietary School Advisory Commission.
- 32.24. Duties of Administrator.

SUBCHAPTER D. AUTHORIZED OPERATION OF SCHOOLS

- 32.31. Certificate of Approval.
- 32.32. Application for Certificate of Approval.
- 32.33. Criteria.
- 32.34. Issuance of Certificate of Approval: Renewal.
- 32.35. Denial of Certificate of Approval.
- 32.36. Revocation of Certificate of Approval.
- 32.37. Registration of Representatives.
- 32.38. Bond Requirements.
- 32.39. Refund Policy.

SUBCHAPTER E. APPEAL

- 32.41. Hearing.
- 32.42. Appeal.

SUBCHAPTER F. CLASS ACTION SUITS

- 32.51. Class Action.
- 32.52. Notice.
- 32.53. Judgment and Costs.

SUBCHAPTER G. PROHIBITED ACTS

Section

32.61. Prohibitions.

32.62. Injunctions.

SUBCHAPTER H. FEES

32.71. Certificate and Registration Fees.

SUBCHAPTER I. FUNDING

32.81. Funding.

Chapter 32 consisting of §§ 32.01 to 32.81 was added to Title 2 of this Code by Acts 1971, 62nd Leg., p. 2006, ch. 620, § 1, effective January 1, 1972.

SUBCHAPTER A. TITLE AND PURPOSE

Section 32.01. Short Title

This Act shall be known as the "Texas Proprietary School Act."

Sections 3 and 4 of the 1971 act provided:
 "Section 3. If any provision of this Act or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given

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

"Section 4. This Act takes effect January 1, 1972."

§ 32.02. Purpose and Objectives

The aim in adopting this Chapter is to provide certification and regulation of proprietary schools in Texas.

[Sections 32.03 to 32.10 reserved for expansion]

SUBCHAPTER B. GENERAL PROVISIONS

§ 32.11. Definitions

The following words, terms, and phrases shall have the meaning ascribed to them in this section.

(1) "Proprietary School," referred to as "school," means any business enterprise operated for a profit, or on a nonprofit basis, which maintains a place of business within the State of Texas, or solicits business within the State of Texas, and which is not specifically exempted by the provisions of this Chapter and;

(A) which offers or maintains a course or courses of instruction or study; or

(B) at which place of business such a course or courses of instruction or study is available through classroom instruction or by correspondence, or both, to a person or persons for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, or industrial occupation, or for avocational or personal improvement, except as hereinafter excluded.

(2) "Owner" of a school means:

(A) in the case of a school owned by an individual, that individual;

(B) in the case of a school owned by a partnership, all full, silent, and limited partners;

(C) in the case of a school owned by a corporation, the corporation, its directors, officers, and each shareholder owning shares of issued and outstanding stock aggregating at least ten per cent (10%) of the total of the issued and outstanding shares.

(3) "School employee" means any person, other than an owner, who directly or indirectly receives compensation from the school for services rendered.

(4) "Representative" means a person employed by the school as defined herein, whether the school is located within or without the State of Texas, to act as an agent, solicitor, broker, or independent contractor to directly procure students or enrollees for the school by solicitation within or without this State at any place.

(5) "Administrator" means the State Commissioner of Education or a person, knowledgeable in the administration of regulating proprietary schools, designated by the Commissioner to administer the provisions of this chapter.

(6) "Notice to the school" means written correspondence sent to the address of record for legal service contained in the application for a certificate of approval. "Date of Notice" means the date the notice is mailed by the administrator.

(7) "Support" or "supported" means the primary source and means by which a school derives revenue to perpetuate its operation.

(8) "Person" means any individual, firm, partnership, association, corporation, or other private entity or combination thereof.

§ 32.12. Exemptions

(a) The following schools or educational institutions are specifically exempt from the provisions of this chapter and are not within the definition of "proprietary school."

(1) a school or educational institution supported by taxation from either a local or State source;

(2) nonprofit schools owned, controlled, operated, and conducted by bona fide religious, denominational, eleemosynary, or similar public institutions exempt from property taxation under the laws of this State, but such schools may choose to apply for a certificate of approval hereunder, and upon approval and issuance, shall be subject to the provisions of this chapter as determined by the administrator;

(3) a school or training program which offers instruction of purely avocational or recreational subjects as determined by the administrator;

(4) a course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees, and for which no tuition fee is charged to the student;

(5) a course or courses of study or instruction sponsored by a recognized trade, business, or professional organization for the instruction of the members of the organization with a closed membership;

(6) private colleges or universities which award a recognized baccalaureate, or higher degree, and which maintain and operate educational programs for which a majority of the credits given are transferable to a college, junior college, or university supported entirely or partly by taxation from either a local or State source;

(7) a school which is otherwise regulated and approved under and pursuant to any other law of the State.

(b) Schools offering a course or courses of special study or instruction financed and/or subsidized by local, state or federal funds or any person, firm, association, or agency other than the student involved, on a contract basis and having a closed enrollment may apply to the Administrator for exemption of such course or courses from the provisions of this Chapter and such course or courses may be declared exempt by the Administrator where he finds the course or courses to be outside the purview of this Chapter.

[Sections 32.13 to 32.20 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND DUTIES

§ 32.21. Central Education Agency

The Central Education Agency shall exercise jurisdiction and control of the system of schools, and it shall be the duty of the Commissioner of Education to carry out supervision of the provisions of this chapter, and to enforce minimum standards for approval of schools under the operating regulations and policies hereinafter set forth and as may from time to time be adopted pursuant to the provisions of this chapter.

§ 32.22. The State Board of Education

The State Board of Education shall adopt policies, regulations and rules necessary for carrying out the provisions of this chapter after consultation with the Proprietary School Advisory Commission.

§ 32.23. Proprietary School Advisory Commission

(a) The Proprietary School Advisory Commission is created. The Commission shall be composed of nine members appointed by the State Board of Education for staggered terms of six (6) years expiring on January 31 of each odd-numbered year. In making the initial appointments, the Board shall designate three (3) members for terms expiring in 1973, three for terms expiring in 1975, and three for terms expiring in 1977. If one of the commission members resigns or is otherwise unable to serve, a new member shall be appointed by the State Board of Education to fill the unexpired terms. Four members of the Commission shall be "owners" or shall be "employees" employed in a managerial or executive capacity by the schools as defined in Section 32.11 of this Code and shall include at least one member from each of the following school areas: (1) trade and technical schools, (2) business schools and (3) correspondence schools; of these four members, one shall be a person who owns or operates not more than two (2) proprietary schools in Texas; three members shall be public school officials; and two members shall be distinguished citizens of Texas with an interest in providing vocational-technical training in Texas. All members shall have been recommended by the Administrator to the State Board of Education. In making his recommendations, the Administrator shall consider any recommendations made to him by parties interested in the composition of the Advisory Commission.

(b) The commission shall elect one member as chairman of the commission. A majority of the appointed members at the call of the chair shall organize and elect the other officers that the commission deems necessary.

(c) The commission shall meet regularly in Austin at 10:00 a. m. on the second Tuesday of January, May, and September, and shall conduct special meetings at the call of the chair, the administrator, or upon the written petition of at least four members of the commission.

(d) A member of the commission serves without compensation but upon presentation of a voucher signed by the chairman of the commission and approved by the administrator is entitled to receive reimbursement for actual expenses incurred while traveling on official commission business in accordance with the policy and regulations of the State of Texas.

(e) A majority of the commission is a quorum for the conduct of business; provided, however, that no less than four voting members must concur in any matter before the commission.

(f) The commission shall be advisory in nature. It shall act with the advice and assistance of the administrator and may hold hearings upon substantive changes in rules, regulations and minimum standards. The advice of the commission with respect to the policies, regulations, minimum standards, and rules for carrying out the provisions of this chapter, shall be forwarded by the administrator to the State Board of Education.

§ 32.24 Duties of Administrator

(a) The administrator shall carry out the policies of this chapter and enforce the rules and regulations adopted by the State Board of Educa-

tion. He shall also certify the names of those schools meeting the requirements for a certificate of approval.

(b) The administrator may adopt and enforce temporary rules and regulations pursuant to the provisions of this chapter but the temporary rules and regulations are valid only until the next meeting of the State Board of Education.

[Sections 32.25 to 32.30 reserved for expansion]

SUBCHAPTER D. AUTHORIZED OPERATION OF SCHOOLS

§ 32.31. Certificate of Approval

(a) No school shall maintain, advertise, solicit for, or conduct any course of instruction in Texas without first obtaining a certificate of approval from the administrator.

(b) Any contract entered into with any person for a course of instruction after the effective date of this chapter by or on behalf of any person operating any school to which a certificate of approval has not been issued pursuant to the provisions of this chapter, shall be unenforceable in any action brought thereon.

§ 32.32. Application for Certificate of Approval

Every proprietary school desiring to operate in the State of Texas or do business in the State shall make written application to the administrator for a certificate of approval. Such application shall be verified, be in such form as may be prescribed by the State Board of Education, and shall furnish the administrator such information as he may require.

§ 32.33. Criteria

The administrator may approve the application of such proprietary school when the school is found, upon investigation, to have met the following criteria:

(a) The courses, curriculum, and instruction are of such quality, content, and length as may reasonably and adequately achieve the stated objective for which the courses, curriculum or instruction are offered.

(b) There is in the school adequate space, equipment, instructional material and instructor personnel to provide training of good quality.

(c) Educational and experience qualifications of directors, administrators and instructors are adequate.

(d) The school maintains a written record of the previous education and training of the applicant student and clearly indicates that appropriate credit has been given by the school for previous education and training, with the new training period shortened where warranted through use of appropriate skills or achievement tests and the student so notified.

(e) A copy of the course outline; schedule of tuition, fees, refund policy, and other charges; regulations pertaining to absence, grading policy, and rules of operation and conduct will be furnished the student prior to enrollment.

(f) Upon completion of training, the student is given a certificate by the school indicating the course and that training was satisfactorily completed.

(g) Adequate records as prescribed by the administrator are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress and conduct are enforced.

(h) The school complies with all local, city, county, municipal, state and federal regulations, such as fire, building and sanitation codes. The administrator may require such evidence of compliance as is deemed necessary.

(i) The school is financially sound and capable of fulfilling its commitments for training.

(j) The school's administrators, directors, owners, and instructors are of good reputation and character.

(k) The school has, maintains and publishes in its catalogue and enrollment contract, the proper policy for the refund of the unused portion of tuition, fees and other charges in the event the student enrolled by the school fails to take the course or withdraws or is discontinued therefrom at any time prior to completion.

(l) The school does not utilize erroneous or misleading advertising, either by actual statement, omission, or intimation as determined by the State Board of Education.

(m) Such additional criteria as may be required by the State Board of Education.

(n) The school does not use a name like or similar to an existing tax supported school in the same area.

§ 32.34. Issuance of Certificate of Approval: Renewal

(a) The administrator, upon review of an application for a certificate of approval duly submitted in accordance with the provisions of Section 32.32 and meeting the requirements of Section 32.33 of this chapter, shall issue a certificate of approval to the applicant school. The certificate of approval shall be in a form recommended by the commission and approved by the State Board of Education and shall state in a clear and conspicuous manner at least the following information:

- (1) date of issuance, effective date, and term of approval;
- (2) correct name and address of the school;
- (3) authority for approval and conditions of approval, if any, referring specifically to the approved catalogue or bulletin published by the school;
- (4) signature of the administrator or such person as may have been designated by him to administer the provisions of this chapter; and
- (5) any other fair and reasonable representations that are consistent with this chapter and deemed necessary by the administrator.

(b) The term for which a certificate of approval shall be issued shall not exceed one year.

(c) The certificate of approval shall be issued to the owner of the applicant school and shall be nontransferable. In the event of a change in ownership of the school, a new owner must, at least thirty (30) days prior to the change in ownership, apply for a new certificate of approval.

(d) At least thirty (30) days prior to expiration of a certificate of approval, the school shall forward to the administrator an application for renewal. The administrator shall reexamine the school and either renew or cancel the school's certificate of approval.

(e) A school not yet in operation when its application for certificate of approval is filed may not begin operation until receipt of certificate of approval.

§ 32.35. Denial of Certificate of Approval

(a) If the administrator, upon review and consideration of an application for certificate of approval, shall determine the applicant to be unacceptable, the administrator shall set forth the reasons for denial, in writing, to the applicant.

(b) Upon receipt of notice from the Administrator that its application is unacceptable, a school shall take immediate steps to comply with the provisions of this Act and the requirements promulgated by the State Board of Education pursuant hereto, and such school shall be granted a reasonable time in which to bring its operations into compliance. Should such school fail to comply within the period of time granted by the Administrator, its operations shall thereafter be suspended, and such operations shall not be resumed until a certificate of approval is granted by the Administrator pursuant to the provisions of this Act.

§ 32.36. Revocation of Certificate of Approval

(a) The Administrator may revoke an issued certificate of approval or place reasonable conditions upon the continued approval represented by the certificate. Prior to revocation or imposition of conditions upon a certificate of approval, the Administrator shall notify the holder of the certificate, in writing, of the impending action and set forth the grounds for the action.

(b) A certificate of approval may be revoked or made conditional if the Administrator has reasonable cause to believe that the school is guilty of a violation of this chapter or of any rules and regulations promulgated hereunder.

§ 32.37. Registration of Representatives

(a) All representatives employed by a school shall register with the administrator. Application for registration may be made at any time and shall be based on information submitted in accordance with the provisions of Section 32.32 of this chapter.

(b) Registration of a representative shall be effective upon receipt of notice from the administrator and shall remain in effect for a period not in excess of twelve (12) calendar months. Renewal of representative registration shall be in accordance with the renewal application form forwarded to the school by the administrator.

(c) Denial or revocation of registration of a representative by the administrator shall be in accordance with the provisions of this chapter applicable to denial or revocation of a certificate of approval; provided, however, the administrator may deny, suspend or revoke the registration of a representative who has been convicted of a felony, whether within or without the State of Texas.

(d) Schools domiciled, or having their principal place of business outside of the State of Texas that engage representatives to canvass, solicit or contract with any person within the State of Texas, shall be subject to the requirements for registration of representatives.

§ 32.38. Bond Requirements

(a) Before a certificate of approval is issued under this chapter, a bond in the penal sum of \$25,000.00 shall be provided by the school for the period during which the certificate of approval is issued, and the obligation of the bond shall be that neither a provision of this chapter nor any rule or regulation adopted pursuant thereto shall be violated by the school or any of its officers, agents, or employees. The bond shall be a corporate surety bond issued by a company authorized to do business in the State, conditioned that the parties thereto shall pay all damages or expenses which the State or any governmental subdivision thereof, or any person may sustain resulting from a violation. The bond shall be to the State for the use and benefit of any person or governmental subdivision of the State which may suffer expenses or damage by breach thereof. The bond shall be filed with the administrator and shall be in such form as shall be approved by the administrator.

(b) Before a representative may be registered under this Chapter, a bond in the penal sum of \$1,000.00 shall be provided by or for each representative for a period running concurrently with that of the school's certificate of approval, and the obligation of the bond shall be that neither a provision of this chapter nor any rule or regulation adopted pursuant thereto shall be violated, nor shall fraud or misrepresentation in securing the enrollment of a student be committed by the representative. The bond shall be a corporate surety bond issued by a company authorized to do business in the State, conditioned that the parties thereto shall pay all damages or expenses which the State, any governmental subdivision thereof, or any person may sustain resulting from a violation. The bond shall be to the State for the use and benefit of any person or governmental subdivision of the State which may suffer expense or damage by

breach thereof. The bond shall be filed with the administrator and shall be in such form as shall be approved by the administrator.

(c) In lieu of the corporate surety bond required in subsections (a) and (b) of this Section, the school may, in the alternative, provide any other similar certificate or evidence of indebtedness as may be acceptable to the Administrator, provided that the Certificate or evidence of indebtedness meets all the requirements applicable to the corporate surety bond.

(d) Schools domiciled, or having their principal place of business, outside of the State of Texas, that engage representatives to canvass, solicit, or contract with any person within the State of Texas, shall be subject to the bond requirements for both the school and its representatives.

(e) The administrator, for good cause shown, as recommended by the commission and approved by the State Board of Education, may waive and suspend the requirements set forth in Subsections (a), (b), and (c) of this Section with respect to schools operating wholly or in part under a federal grant where no tuition fee is charged to the student.

§ 32.39. Refund Policy

(a) As a condition for granting certification each school must maintain a policy for the refund of the unused portion of tuition, fees and other charges in the event the student fails to enter the course, or withdraws, or is discontinued therefrom at any time prior to completion, and such policy must provide:

(1) refunds will be based on the period of enrollment computed on the basis of course time expressed in clock hours;

(2) the effective date of the termination for refund purposes will be the earliest of the following:

(A) the last date of attendance, if the student is terminated by the school;

(B) the date of receipt of written notice from the student;

(C) ten school days following the last date of attendance;

(3) for programs longer than one year (12 calendar months) in length, 100 percent of stated course price attributable to the period beyond the first year will be refunded when the student withdraws from the school during the prior period;

(4) if tuition is collected in advance of entrance, and if the student does not enter the school, not more than \$50 shall be retained by the school;

(5) in cases of termination or withdrawal after classes commence, the minimum refund policy will be:

(A) during the first quarter of the course, the student will be refunded 75 percent of the tuition, less a registration fee not to exceed \$50;

(B) during the second quarter of the course, the student will be refunded 50 percent of the tuition, less a registration fee not to exceed \$50;

(C) during the third quarter of the course, the student will be refunded 25 percent of the tuition, less a registration fee not to exceed \$50;

(D) during the last quarter of the course, the student may be considered obligated for the full tuition;

(6) refunds of items of extra expense to the student, such as instructional supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other such ancillary miscellaneous charges where these items are separately stated and shown in the data furnished the student before enrollment, will be made in a reasonable manner acceptable to the Administrator;

(7) refunds will be totally consummated within 30 days after receipt of written request or termination by the school.

(b) In lieu of the refund policy herein set forth, for programs of instruction not regularly offered to the general public, the State Board of Education may, for good cause shown, amend, modify, substitute and/or alter the terms of such policy due to the specialized nature and objective of the subject school's course of instruction.

[Section 32.40 reserved for expansion]

SUBCHAPTER E., APPEAL

§ 32.41. Hearing

Should the applicant be dissatisfied with the denial of a certificate of approval by the Administrator, the applicant shall have the right to appeal the decision of the Administrator and request a hearing with the Administrator within fifteen (15) days after receipt of notice. Upon receipt of the request for a hearing, the Administrator shall set a time and place for said hearing and then send notice to the school of said time and place. Said hearing shall be held within thirty (30) days from the receipt of the request for a hearing. At said hearing, an applicant may appear in person or by counsel and present evidence to the Administrator in support of the granting of the permit specified herein. All interested persons may also appear and present oral and documentary evidence to the Administrator, concerning the issuance of a certificate of approval to the applicant school. Within ten (10) days after the hearing, the Administrator shall send notice to the school either affirming or revoking the denial of the certificate of approval.

§ 32.42. Appeal

(a) If the results of the hearing affirm the denial of a certificate of approval, the applicant may request a hearing before the State Board of Education. Said hearing must be requested within fifteen (15) days after receipt of notice of affirmation of denial. The State Board of Education shall, within thirty (30) days after receipt of the request for hearing, set a time and place for said hearing, and send proper notice to the school of this time and place. At said hearing before the State Board of Education, the applicant may appear in person or by counsel and present arguments to the State Board of Education in support of the granting of the certificate of approval specified herein. The State Board of Education shall consider the appeal from the decision of the administrator on the basis of the record made in the hearing before the administrator.

The State Board of Education shall, within ten (10) days of such hearing, issue an order granting or denying a certificate of approval for the operation of a proprietary school and shall state in such order the reasons for its decision.

(b) Upon the granting or denial of a certificate of approval, the State Board of Education shall serve a copy of its order upon the school by registered mail within ten (10) days of the entry of such order by said Board. Such order may be appealed to any District Court of competent jurisdiction by the filing of a lawsuit therein within fifteen (15) days after receipt by such school of the copy of such order served by registered mail as herein provided. Venue in such lawsuits shall lie in Travis County, Texas.

(c) Unless stayed by the Court upon a showing of good cause, the Order of the State Board of Education shall not be superseded during such appeal; if the Court is of the opinion that justice will be served thereby.

(d) Upon the filing of such lawsuit, citation shall be served upon the administrator as agent for the State Board of Education. Whereupon, the administrator shall cause to be made a complete record of all proceedings had before the administrator and before the State Board of Education, and shall certify a copy of such proceedings to the Court. Trial before the Court shall be upon the basis of the record made before the

administrator and the State Board of Education, and the Court shall make its decision based upon such record. The decision of the State Board of Education shall be affirmed by the Court if the Court finds substantial evidence in the record to justify the decision of the State Board of Education, unless the Court finds such order to be:

- (1) arbitrary and capricious, or
- (2) in violation of the Constitution or laws of the State of Texas, or
- (3) in violation of rules and regulations promulgated by the State Board of Education pursuant to the provisions of the Act.

(e) The decision of the trial court shall be subject to appeal in like manner as any other civil lawsuit under the Texas Rules of Civil Procedure.

(f) Appeals concerning revocation of certificates of approval shall be prosecuted in the same manner and under the same provisions as herein provided for appeals from denial of such certificates.

[Sections 32.43 to 32.50 reserved for expansion]

SUBCHAPTER F. CLASS ACTION SUITS

§ 32.51. Class Action

Any person or persons who shall be injured by any act taken or permitted in violation of this Act may, on behalf of himself or themselves and others similarly situated, maintain an action in any District Court of competent jurisdiction, regardless of the amount in controversy, for temporary or permanent injunctive relief, declaratory relief, or other relief, including damages, such action to be pursued in accordance with the provisions of Rule 42 of the Texas Rules of Civil Procedure; provided, however, that venue for any such action shall be in Austin, Travis County, Texas. A party filing such an action must give prompt notice to the Attorney General, who shall be permitted to join, upon application within 30 days, as a party plaintiff.

§ 32.52. Notice

In any class action permitted under this Act, the Court shall direct the defendant to serve upon each member of the class the best possible notice; and if required in the interest of justice, the Court may direct that individual notice be served upon all members of the class who can be identified through reasonable efforts. Such notice shall inform the recipient that he is thought to be a member of the class and, if so, he may enter an appearance and join in the suit, either for himself or through counsel.

§ 32.53. Judgment and Costs

The Court shall enter judgment in each class action brought under the provisions hereof in such form as shall be justified by the facts and the law applicable thereto. Damages shall be awarded only to those members of the class who joined as parties plaintiff, but all other relief granted by the Court shall inure to the benefit of all members of the class. Should a plaintiff prevail in such a class action, he shall be awarded court costs and a reasonable counsel fee in the judgment. A legal aid society or legal services program which represents the plaintiff or plaintiffs in such an action shall be awarded a service fee in lieu of a counsel fee.

[Sections 32.54 to 32.60 reserved for expansion]

SUBCHAPTER G. PROHIBITED ACTS**§ 32.61. Prohibitions**

(a) No person shall:

- (1) operate a school without a certificate of approval issued by the Administrator;
- (2) solicit prospective students without being bonded as required by this Chapter;
- (3) accept contracts or enrollment applications from a representative who is not bonded as required by this Chapter;
- (4) utilize advertising designed to mislead or deceive prospective students;
- (5) violate any provision of this Chapter.

(b) A person who violates Subsection (a) of this Section is guilty of a misdemeanor and upon conviction, shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00) and each day that any prohibited act continues shall constitute a separate offense.

§ 32.62. Injunctions

Whenever the Administrator has probable cause to believe that any school has committed any acts that would be in violation of this Chapter, the Administrator shall have the duty to make application to a court of competent jurisdiction for an injunction restraining the commission of such acts.

[Sections 32.63 to 32.70 reserved for expansion]

SUBCHAPTER H. FEES**§ 32.71. Certificate and Registration Fees**

Certificate and registration fees shall be collected by the Administrator and deposited with the State Treasurer in accordance with the following schedule:

- (1) the initial fee for a school is One Hundred Dollars (\$100.00);
- (2) the annual renewal fee for a school is Fifty Dollars (\$50.00);
- (3) the initial registration fee for a representative is Ten Dollars (\$10.00);
- (4) the annual renewal fee for a representative is Ten Dollars (\$10.00).

[Sections 32.72 to 32.80 reserved for expansion]

SUBCHAPTER I. FUNDING**§ 32.81. Funding**

(a) The cost of administration of this Chapter shall be included in the State budget allowance for the State Board of Education.

(b) Fees collected by the Administrator and deposited with the State Treasurer shall be used to help defray the cost and expense of administering the provisions of this Chapter.

TITLE 3. HIGHER EDUCATION

SUBTITLE A. HIGHER EDUCATION IN GENERAL

CHAPTER 51. PROVISIONS GENERALLY APPLICABLE TO HIGHER EDUCATION

SUBCHAPTER A. CONTROL OF FUNDS BY CERTAIN INSTITUTIONS

Section

- 51.001. Institutions to which Applicable.
- 51.002. Funds Subject to Control.
- 51.003. Depositories.
- 51.004. Separate Accounts; Trust Funds; Interest.
- 51.005. Reports.
- 51.006. Funds not to be Used to Increase Salaries.
- 51.007. Penalty.
- 51.008. Certain Receipts to be Deposited in State Treasury.

[Sections 51.009 to 51.050 reserved for expansion]

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- 51.051. Investment of General Property Deposits.
- 51.052. Student Deposit Fund; Composition and Uses.

[Sections 51.053 to 51.100 reserved for expansion]

SUBCHAPTER C. FACULTY DEVELOPMENT LEAVES OF ABSENCE

- 51.101. Definitions.
- 51.102. Legislative Findings and Purpose.
- 51.103. Granting Leaves of Absence; Procedures.
- 51.104. Service Required.
- 51.105. Duration and Compensation.
- 51.106. Number on Leave at One Time.
- 51.107. Rights Retained.
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[Sections 51.109 to 51.150 reserved for expansion]

SUBCHAPTER D. INFORMATION NETWORK ASSOCIATIONS

- 51.151. Definitions.
- 51.152. Purpose.
- 51.153. Western Information Network Association.
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- 51.157. Chairman, Vice Chairman.
- 51.158. General Manager, Employees.
- 51.159. Delegation of Authority.
- 51.160. Bond of Officer, Agent, or Employee.

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- 51.161. Powers and Duties of Association.
- 51.162. Gifts and Grants.
- 51.163. Information Network Association Fund.
- 51.164. Rules and Regulations.
- 51.165. Principal Office.
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- 51.167. Designation of Regions for Additional Associations.
- 51.168. Creation of Additional Associations.
- 51.169. Provisions Applicable to Additional Associations.
- 51.170. Revenue Bonds.
- 51.171. Revenue Refunding Bonds.
- 51.172. Approval of Bonds; Registration.
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[Sections 51.174 to 51.200 reserved for expansion]

**SUBCHAPTER E. PROTECTION OF BUILDINGS
AND GROUNDS**

- 51.201. Applicability of Criminal Laws.
- 51.202. Rules and Regulations; Penalty.
- 51.203. Campus Security Personnel.
- 51.204. Trespass, Damage, Etc.
- 51.205. Parking; Blocking or Impeding Traffic.
- 51.206. Parking and Traffic Tickets; Summons; Arrest Warrants.
- 51.207. Vehicle Identification Insignia.
- 51.208. Courts Having Jurisdiction.
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- 51.210. Enforcement of Rules and Regulations.
- 51.211. Cumulative Effect.
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[Sections 51.213 to 51.300 reserved for expansion]

SUBCHAPTER F. REQUIRED AND ELECTIVE COURSES

- 51.301. Government or Political Science.
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[Sections 51.305 to 51.350 reserved for expansion]

SUBCHAPTER G. OPTIONAL RETIREMENT SYSTEM

- 51.351. Legislative Findings and Purpose.
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- 51.353. Establishment; Participation.
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- 51.355. Options.
- 51.356. Withdrawal of Contributions to Retirement System.
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[Sections 51.358 to 51.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Section

- 51.901. Liability Insurance for Operators of Atomic Energy Reactors.
 51.902. Contracts for Teacher Training.
 51.903. Archives; Certified Copies.
 51.904. Street Closing.
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Title 3 of the Texas Education Code was added by Acts 1971, 62nd Leg., p. 3319, ch. 1024, Art. 1, § 1, effective September 1, 1971.

Acts 1971, 62nd Leg., p. 3319, ch. 3024, enacting Title 3 of this Code, provides in Sections 2 and 4 of Article 1:

"Sec. 2. Legislative intent. This is intended as a recodification only and no substantive changes are intended by this legislation.

"Sec. 4. Effective date. This article takes effect on September 1, 1971."

CHAPTER 51. PROVISIONS GENERALLY APPLICABLE TO HIGHER EDUCATION

Chapter 51 originally was entitled "Public Junior Colleges" and consisted of §§ 51.001 to 51.203 as enacted by Acts 1969, 61st Leg., p. 2735, ch. 889, § 1, the provisions of which were transferred to Chapter 130 entitled "Junior College Districts" and renumbered as §§ 130.001 to 130.133 by this Act.

SUBCHAPTER A. CONTROL OF FUNDS BY CERTAIN INSTITUTIONS

Section 51.001. Institutions to which Applicable

Subject to Section 51.008 of this code, the provisions of this subchapter apply to:

- (1) each institution and branch of The University of Texas System;
- (2) each institution, agency, and service of The Texas A & M University System;
- (3) Texas A & I University;
- (4) Texas Tech University;
- (5) East Texas State University;
- (6) North Texas State University;
- (7) Sam Houston State University;
- (8) Stephen F. Austin State University;
- (9) Southwest Texas State University;
- (10) Sul Ross State University;
- (11) West Texas State University; and
- (12) each public junior college to the extent possible. (V.A.C.S. Art. 2654d, Sec. 1 (part), 1a.)

Title of Act:

An Act amending and reenacting Title 3, Texas Education Code, a nonsubstantive revision of the higher education laws of this state; amending the code to conform to

legislation enacted during the current session; repealing the statutes replaced by the code; and declaring an emergency. Acts 1971, 62nd Leg., p. 3072, ch. 1024.

§ 51.002. Funds Subject to Control

(a) The governing board of each institution listed in Section 51.001 of this code may retain control of the following sums of money collected at the institution, subject to Section 51.008 of this code.

- (1) student fees of all kinds;
- (2) charges for use of rooms and dormitories;
- (3) receipts from meals, cafes, and cafeterias;
- (4) fees on deposit refundable to students under certain conditions;
- (5) receipts from school athletic activities;
- (6) income from student publications and other student activities;
- (7) receipts from the sale of publication products and miscellaneous supplies and equipment;
- (8) students' voluntary deposits of money for safekeeping;
- (9) all other fees and local institutional income of a strictly local nature arising out of and by virtue of the educational activities, research, or demonstrations carried on by the institution; and
- (10) donations and gifts to the institution.

(b) The provisions of this subchapter do not apply to any income derived from the permanent university fund. (V.A.C.S. Art. 2654d, Sec. 1 (part), 5 (part), 6.)

§ 51.003. Depositories

(a) The governing board of each institution may select depository banks as places of deposit for the funds enumerated in Section 51.002 of this code.

(b) The funds shall be deposited in the depository bank or banks within seven days from the date of collection.

(c) The governing board shall require adequate surety bonds or securities to be posted to secure the deposits and may require additional security at any time it deems the deposits inadequately secured. The depository banks selected may pledge their securities to protect the funds.

(d) A depository shall pay interest on the deposits at a rate agreed on by the depository and the governing board.

(e) Any surety bond furnished under the provisions of this section shall be payable to the governor and his successors in office. Venue for a suit to recover an amount claimed by the state to be due on a surety bond is in Travis County. (V.A.C.S. Art. 2654d, Sec. 2.)

§ 51.004. Separate Accounts; Trust Funds; Interest

(a) Separate accounts shall be kept on the books of the institution showing the sources of all sums collected and the purposes for which disbursements are made.

(b) All trust funds, including gifts, grants, and bequests received, establishing or adding to endowment funds, loan and scholarship funds, and funds for other current restricted purposes, shall be credited to separate accounts and shall not be commingled with the general income from student fees or other institutional income.

(c) If the governing board so elects, deposits of all funds not specifically required to be deposited to special accounts may be deposited in a single bank account if the records of the institution clearly reflect the balances attributable to general funds and various categories of trust funds.

(d) Interest received from depository banks for funds on deposit may be credited to an appropriate account in either general funds or trust funds in relation to the sources of temporary investments in time deposits, if the disposition of the earnings was not specified by the grantor. Interest received from the trust funds time deposits shall be available for

loans, scholarships, fellowships, institutional research, faculty aid, and other lawful purposes. (V.A.C.S. Art. 2654d, Sec. 3.)

§ 51.005. Reports

(a) True and full accounts shall be kept by the governing board and by the employees of the institution of all funds collected from all sources and of all sums paid out and the persons to whom and the purposes for which the sums are paid; and the governing board shall biennially, or more often if the board so orders, print a complete report of all the sums collected, all expenditures, and all sums remaining on hand.

(b) The report shall be printed in even-numbered years between September 1 and January 1. It shall show the true condition of all funds as of the August 31 preceding as well as the collections and expenditures for the preceding two years.

(c) The governing board shall furnish copies of the report to the governor, state treasurer, comptroller of public accounts, state auditor, and attorney general. At least three copies of the report shall be furnished to the State Board of Control. Each member of the House Appropriations Committee, the Senate Finance Committee, and the house and senate committees on education of each regular session of the legislature shall be furnished a copy of the report within a week after the selection of each committee. (V.A.C.S. Art. 2654d, Sec. 4.)

§ 51.006. Funds not to be Used to Increase Salaries

No part of any of the funds listed in Section 51.002 of this code shall ever be used to increase any salary beyond the sum fixed by the legislature in the general appropriations act, and the provisions of this subchapter are subordinate to the general appropriations act for the support of each institution. (V.A.C.S. Art. 2654d, Sec. 8a.)

§ 51.007. Penalty

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 subchapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$500, and in addition may be sentenced to not less than 15 days nor more than three 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. 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 subchapter, 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. (V.A.P.C. Art. 419b.)

§ 51.008. Certain Receipts to be Deposited in State Treasury

(a) The governing board of every state institution of higher education is directed to designate special depository banks, subject to the approval of the state treasurer, for the purpose of receiving and keeping certain receipts of the institution separate and apart from funds now deposited in the state treasury. The receipts here referred to are described in Subsection (b) of this section. The state treasurer is directed to deposit the receipts, or funds representing such receipts, enumerated herein, in the special depository bank or banks nearest the institution credited with the receipts, so far as is practicable, and is authorized to withdraw such

funds on drafts or checks prescribed by the state treasurer. The state treasurer is authorized to promulgate rules and regulations to require collateral security for the protection of such funds pursuant to the provisions of Articles 2529 and 2530, Revised Civil Statutes of Texas, 1925, as amended. For the purpose of facilitating the clearance and collection of the receipts herein enumerated, the state treasurer is hereby authorized to deposit such receipts in any state depository bank and transfer funds representing such receipts enumerated herein to the respective special depository banks. Banks so designated as special depository banks are hereby authorized to pledge their securities to protect such funds.

(b) The governing board of every state institution of higher education shall deposit in the state treasury all cash receipts accruing to any college or university under its control that may be derived from all sources except auxiliary enterprises, noninstructional services, agency and restricted funds, endowment funds, student loan funds, and Constitutional College Building Amendment funds. The state treasurer is directed to credit such receipts deposited by each such institution to a separate fund account for the institution depositing the receipts, but he shall not be required to keep separate accounts of types of funds deposited by each institution. For the purpose of facilitating the transferring of such institutional receipts to the state treasury, each institution shall open in a local depository bank a clearing account to which it shall deposit daily all such receipts, and shall, not less often than every seven days, make remittances therefrom to the state treasurer of all except \$500 of the total balance in said clearing account, such remittances to be in the form of checks drawn on the clearing account by the duly authorized officers of the institution, and no disbursements other than remittances to the state treasury shall be made from such clearing account. All money so deposited in the state treasury shall be paid out on warrants drawn by the comptroller of public accounts as provided by law.

(c) The legislature is authorized to create revolving funds for the handling of funds of institutions of higher education, as enumerated herein, by making provision in each biennial appropriation bill enacted by the legislature.

(d) Nothing in this section affects the provisions of Title 47, Revised Civil Statutes of Texas, 1925, usually referred to as the State Depository Law. However, the limitation of deposits contained in Article 2532, Revised Civil Statutes of Texas, 1925, as amended, shall not apply insofar as the specific funds enumerated in this section are concerned.

(e) This section prevails over Sections 51.001–51.007 of this code to the extent of any conflict. (V.A.C.S. Art. 2543c.)

[Sections 51.009 to 51.050 reserved for expansion]

SUBCHAPTER B. GENERAL PROPERTY DEPOSITS: INVESTMENT AND USES

§ 51.051. Investment of General Property Deposits

The governing board of each institution of higher education may invest in United States government securities or may place on time deposit with a bank located in the state not more than 85 percent of the funds received as general property deposits authorized in Section 54.502 of this code. If the funds are placed on time deposit, they shall be secured by United States government securities. (V.A.C.S. Art. 2654d—1, Sec. 1.)

§ 51.052. Student Deposit Fund; Composition and Uses

(a) The student deposit fund consists of the income from the investment or time deposits of general property deposits and of forfeited gener-

al property deposits. Any general property deposit which remains without call for refund for a period of four years from the date of last attendance of the student making the deposit shall be forfeited and become a part of the student deposit fund. Nothing in this section shall be construed to prohibit refund of any balance remaining in a general property deposit when made on proper demand and within the four-year limitation period. The board may require that no student withdraw his deposit until he has been graduated or has apparently withdrawn from school.

(b) The student deposit fund shall be used, at the discretion of the board, either for the purpose of making scholarship awards to needy and deserving students or for the support of a general student union program, or for both purposes. The board shall administer the scholarship awards for the institution, including the selection of recipients and the amounts and conditions of the awards. The recipients of the scholarships must be residents of the state as defined for tuition purposes. Any use of the funds for the support of student union programs shall be approved as to amount and purpose by the board. The student deposit funds for The University of Texas at Austin, Texas A & M University, and Texas Tech University shall be available for scholarship purposes only. Direct expenses for the administration of the funds shall be paid from the funds. (V.A.C.S. Art. 2654d—1, Secs. 2, 3.)

[Sections 51.053 to 51.100 reserved for expansion]

SUBCHAPTER C. FACULTY DEVELOPMENT LEAVES OF ABSENCE

§ 51.101. Definitions

In this subchapter:

(1) "Institution of higher education" has the meaning assigned to it in Section 61.003 of this code, except that Texas State Technical Institute is included and the Rodent and Predatory Animal Control Service is excluded for the purposes of this subchapter.

(2) "Governing board" means the body charged with policy direction of an institution of higher education.

(3) "Faculty member" means a person who is employed by an institution of higher education on a full-time basis as a member of the faculty or staff and whose duties include teaching, research, administration, including professional librarians, or the performance of professional services. However, the term does not include a person employed in a position which is in the institution's classified personnel system or a person employed in a similar type of position if the institution does not have a classified personnel system. (V.A.C.S. Art. 2647c—2, Sec. 2.)

§ 51.102. Legislative Findings and Purpose

The legislature finds that higher education is vitally important to the welfare, if not the survival, of Texas and the United States at this stage in history and that the quality of higher education is dependent upon the quality of college and university faculties. The legislature finds, therefore, that money spent on recognized means for producing an excellent system of public higher education is money spent to serve a public purpose of great importance. The legislature finds further that a sound program of faculty development leaves of absence designed to enable the faculty member to engage in study, research, writing, and similar projects for the purpose of adding to the knowledge available to himself, his students, his institution, and society generally is a well-recognized means for improving a state's program of public higher education. The legislature's purpose in establishing the faculty development leave program provided for by this subchapter is to improve further the higher education

available to the youth at the state-supported colleges and universities and to establish this program of faculty development leaves as part of the plan of compensation for the faculty of these colleges and universities. (V.A.C.S. Art. 2647c—2, Sec. 1.)

§ 51.103. Granting Leaves of Absence; Procedures

(a) On the application of a faculty member, the governing board of an institution of higher education may grant a faculty development leave of absence for study, research, writing, field observations, or other suitable purpose, to a faculty member if it finds that he is eligible by reason of service, that the purpose for which he seeks a faculty development leave is one for which a faculty development leave may be granted, and that granting leave to him will not place on faculty development leave a greater number of faculty members than that authorized.

(b) The governing board by regulation shall establish a procedure whereby the applications for faculty development leaves of absence are received by a committee elected by the general faculty for evaluation and whereby this faculty committee then makes recommendations to the chief administrative officer of the institution of higher education, who shall then make recommendations to the governing board as to which applications should be granted. (V.A.C.S. Art. 2647c—2, Sec. 3.)

§ 51.104. Service Required

A faculty member is eligible by reason of service to be considered for a faculty development leave when he has served as a member of the faculty of the same institution of higher education for at least two consecutive academic years. This service may be as an instructor or as an assistant, associate, or full professor, or an equivalent rank, and must be full-time academic duty but need not include teaching. (V.A.C.S. Art. 2647c—2, Sec. 4.)

§ 51.105. Duration and Compensation

(a) The governing board may grant to a faculty member a faculty development leave either for one academic year at one-half of his regular salary or for one-half academic year at his full regular salary. Payment of salary to the faculty member on faculty development leave may be made only from the funds appropriated by the legislature specifically for that purpose. (Sec. 1, H.B.No.514, 62nd Legis., Reg.Sess., 1971.)

(b) A faculty member on faculty development leave may accept a grant for study, research, or travel from any institution of higher education or from a charitable, religious, or educational corporation or foundation, or from any federal, state, or local governmental agency. A faculty member on faculty development leave may not accept employment from any other person, corporation, or government, unless the governing board determines that it would be in the public interest to do so and expressly approves the employment. (V.A.C.S. Art. 2647c—2, Sec. 5.)

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 3351, ch. 1024, Art. 2, § 27, eff. Sept. 1, 1971.

§ 51.106. Number on Leave at One Time

Not more than six percent of the faculty members of any institution of higher education may be on faculty development leave at any one time. (V.A.C.S. Art. 2647c—2, Sec. 6.)

§ 51.107. Rights Retained

(a) A faculty member on faculty development leave shall continue to be a member of the Teacher Retirement System of Texas or of the Optional Retirement Program of the institution of higher education, or of both, just as any other member of the faculty on full-time duty.

(b) The institution of higher education shall cause to be deducted from the compensation paid to a member of the faculty on faculty development leave the deposit and membership dues required to be paid by him to the Teacher Retirement System of Texas or to the Optional Retirement Program, or both, the contribution for Old Age and Survivors Insurance, and any other amounts required or authorized to be deducted from the compensation paid any faculty member.

(c) A member of the faculty on faculty development leave is a faculty member for purposes of participating in the programs and of receiving the benefits made available by or through the institution of higher education or the state to faculty members. (V.A.C.S. Art. 2647c—2, Sec. 7.)

§ 51.108. Regulations Concerning Absence

(a) The governing board of each college or university supported in whole or in part by state funds shall issue regulations concerning the authorized and unauthorized absence from duty of faculty members, including teaching assistants and research assistants.

(b) Each governing board shall file a copy of these regulations with the Coordinating Board, Texas College and University System. Each governing board shall file any amendment to its regulations with the coordinating board not later than 30 days after the effective date of the amendment. (Secs. 2 and 3, H.B.No.514, 62nd Legis., Reg.Sess., 1971).

Added by Acts 1971, 62nd Leg., p. 3352, ch. 1024, Art. 2, § 28, eff. Sept. 1, 1971.

[Sections 51.109 to 51.150 reserved for expansion]

SUBCHAPTER D. INFORMATION NETWORK ASSOCIATIONS**§ 51.151. Definitions**

In this subchapter:

(1) "Association" means the Western Information Network Association or any other regional network association created and named by the Coordinating Board, Texas College and University System.

(2) "Member" means one of the institutions of higher education which compose an association.

(3) "Associate member" means an organization other than an institution of higher education admitted to associate membership in an association.

(4) "Board" means the board of directors of an association.

(5) "Director" means a member of a board. (V.A.C.S. Art. 2919e—3, Sec. 2.)

§ 51.152. Purpose

The purpose of this subchapter is to promote the educational programs of state-supported institutions of higher education in Texas by authorizing the establishment and operation of a cooperative system for communication and information retrieval and transfer between the institutions and between the institutions and private educational institutions, industry, and the public. The system, employing two-way, closed-circuit television and other electronic communication facilities, is to provide a means of effecting the interchange of ideas, talents, faculties, libraries, and data processing equipment and a means of carrying out an approved program of instructional television. (V.A.C.S. Art. 2919e—3, Sec. 1.)

§ 51.153. Western Information Network Association

(a) The Western Information Network Association is an agency of the state composed of the following state-supported member institutions of higher education: Amarillo College, Angelo State University, Clarendon Junior College, Frank Phillips College, Howard County Junior College, Midwestern University, Odessa College, South Plains College, Sul Ross State University, Texas Tech University, The University of Texas at El Paso, and West Texas State University.

(b) The board by a majority vote may admit other state-supported institutions of higher education to membership in the association on the approval of the Coordinating Board, Texas College and University System.

(c) The board by unanimous vote may admit private institutions of higher education to membership in the association on the approval of the Coordinating Board, Texas College and University System.

(d) The board by unanimous vote may admit other organizations to associate membership in the association. (V.A.C.S. Art. 2919e—3, Sec. 3.)

§ 51.154. Board of Directors

The association is governed by a board of directors. The chief administrative officer, or a person designated by the chief administrative officer, of each institution of higher education holding membership in the association shall serve as a director of the board. Service on the board is an additional duty of employment of the chief administrative officers or the persons designated by the chief administrative officers of state-supported institutions and is not an additional position of honor, trust, or profit. The legislature finds that this service is necessary in accomplishing the purpose of this subchapter; is compatible with their employment; and will benefit the educational program of the institution and of the state. (V.A.C.S. Art. 2919e—3, Sec. 4.)

§ 51.155. Director's Expenses

A director is entitled to receive reimbursement for actual expenses incurred in attending meetings of the board and in attending to the business of the association which is authorized by a resolution of the board. (V.A.C.S. Art. 2919e—3, Sec. 5.)

§ 51.156. Meetings of the Board; Quorum; Action by Board

(a) The board shall hold a meeting at least once each quarter and may hold meetings at other times at the call of the chairman of the board or at the request of a majority of the other directors.

(b) A majority of the membership of the board constitutes a quorum at a meeting of the board.

(c) Action may be taken by the board by the affirmative vote of the majority of the directors present at a meeting at which a quorum is present. (V.A.C.S. Art. 2919e—3, Sec. 6.)

§ 51.157. Chairman, Vice Chairman

The board shall select a director to serve as chairman and a director to serve as vice chairman of the board. The chairman shall preside at meetings of the board. If the chairman is not present, or is unable to act, the vice chairman shall preside at the meeting. (V.A.C.S. Art. 2919e—3, Sec. 7.)

§ 51.158. General Manager, Employees

The board may employ a general manager who shall serve as the chief executive officer of the association. The board may employ other em-

ployees it considers necessary in carrying on the association's duties and functions. (V.A.C.S. Art. 2919e—3, Sec. 8.)

§ 51.159. Delegation of Authority

The board may delegate any of the powers, duties, or functions of the association to the general manager or to any other employee. (V.A.C.S. Art. 2919e—3, Sec. 9.)

§ 51.160. Bond of Officer, Agent, or Employee

(a) The general manager and every agent or employee of the association charged with the collection, custody, or payment of any money of the association shall execute a bond conditioned on the faithful performance of his duties.

(b) The board shall approve the form, amount, and surety of the bond.

(c) The surety may be a surety company authorized to do business in this state.

(d) The association shall pay the premium on the bond. (V.A.C.S. Art. 2919e—3, Sec. 10.)

§ 51.161. Powers and Duties of Association

(a) The association may acquire, operate, and maintain, or obtain by contracting with any communications common carrier in accordance with its tariffs, a multichannel, two-way communications system, including closed-circuit television, linking classrooms, libraries, computer facilities, information retrieval systems, and communications facilities located at the member institutions.

(b) The association may lease, acquire, operate, and maintain, or obtain by contracting with any communications common carrier in accordance with its tariffs, any facilities in addition to those described in Subsection (a) of this section, which the board considers necessary or desirable in carrying out the purposes of this subchapter.

(c) The association is authorized to lease, as lessor or lessee, acquire, operate, maintain, and equip a dormitory or dormitories located on or near the campus of any member institution of the association that is a state-supported institution of higher education, and to issue its revenue bonds therefor as provided in this subchapter.

(d) The association may interchange educational information with private educational institutions, school districts, the United States government, and other parties engaged in education or participating in educational projects, and use the facilities of the association only in the exchange, retrieval, and transfer of information and the interchange of approval course offering and instruction between member-institutions and other parties engaged in education or participating in educational projects. Any dormitories leased, acquired, operated, and maintained by the association shall not be subject to the use limitation of this subsection that applies to all other facilities of the association. (V.A.C.S. Art. 2919e—3, Sec. 11.)

§ 51.162. Gifts and Grants

The association may accept gifts, grants, or donations of real or personal property from any individual, group, association, or corporation. It may accept grants from the United States government subject to the limitations or conditions provided by law. (V.A.C.S. Art. 2919e—3, Sec. 12.)

§ 51.163. Information Network Association Fund

The Information Network Association Fund is a special fund in the state treasury. All money deposited in the treasury by the Western In-

formation Network Association or any other regional network association created by the Coordinating Board, Texas College and University System, shall be credited to the special fund and disbursed as provided by legislative appropriation. (V.A.C.S. Art. 2919e—3, Sec. 13.)

§ 51.164. Rules and Regulations

The association shall adopt and publish rules to govern the conduct of its business. (V.A.C.S. Art. 2919e—3, Sec. 14.)

§ 51.165. Principal Office

The board for Western Information Network Association shall maintain its principal office in Lubbock, at or near Texas Tech University. The boards for other regional information network associations created by the Coordinating Board, Texas College and University System, shall maintain their principal offices at locations designated by the Coordinating Board, Texas College and University System. (V.A.C.S. Art. 2919e—3, Sec. 15.)

§ 51.166. Facilities

Each member institution shall furnish suitable space to the association for a classroom-studio, a lecture studio, and a control room. It may also furnish any additional physical plant facility needed by the association in carrying on its functions at the institution. The facilities may with the approval of the association board and the governing body of the state-supported member institutions be located in a dormitory owned and operated by the association. (V.A.C.S. Art. 2919e—3, Sec. 16.)

§ 51.167. Designation of Regions for Additional Associations

(a) In addition to the Western Information Network Association, the Coordinating Board, Texas College and University System, shall at such times as the board shall determine, divide the state into information network association regions consisting of state-supported institutions of higher education located within geographical boundaries prescribed by the coordinating board.

(b) The coordinating board shall give due consideration to the geographical proximity and number of institutions of higher education to be included within a proposed region. (V.A.C.S. Art. 2919e—3, Sec. 17.)

§ 51.168. Creation of Additional Associations

(a) The coordinating board shall create and name an information network association within an information network region if:

- (1) a majority of the institutions of higher education within a region apply to create an association; and
- (2) the institutions applying show good cause for creating an association.

(b) The coordinating board may not create more than one information network association in an information network region.

(c) Each information network association created is an agency of the state. (V.A.C.S. Art. 2919e—3, Sec. 18.)

§ 51.169. Provisions Applicable to Additional Associations

Except for Subsection (a), Section 51.153 of this code, the provisions of this subchapter apply to any additional information network association created by the coordinating board. (V.A.C.S. Art. 2919e—3, Sec. 19.)

§ 51.170. Revenue Bonds

(a) The board may issue its revenue bonds for the purpose of providing funds to lease, as lessor or lessee, acquire, purchase, construct, im-

prove, enlarge, or equip any property, buildings, structures, or other facilities, including but not limited to dormitories, for and on behalf of the association.

(b) The bonds shall be payable from and secured by liens on and pledges of all or any part of the revenues from any lease rentals, rentals, charges, fees, or other resources of the board or association.

(c) The bonds may be issued to mature serially or otherwise within not more than 40 years from their date. The board may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under the terms and conditions set forth in the resolution authorizing the issuance of the bonds.

(d) The bonds, and any interest coupons appertaining to them, are negotiable instruments. The bonds may be issued registrable as to principal alone or as to both principal and interest. They shall be executed, and may be made redeemable prior to maturity, may be issued in the form, denominations, and manner, and under the terms, conditions, and details, may be sold in the manner, at the price, and under the terms, and shall bear interest at the rate or rates, as is determined and provided by the board in the resolution authorizing the issuance of the bonds.

(e) Proceeds from the sale of the bonds may be used for paying interest on the bonds during the period of the acquisition or construction of any facilities to be provided through the issuance of the bonds and for providing a reserve for the payment of the principal of and interest on the bonds. The proceeds may be placed on time deposit or invested until needed to the extent and in the manner provided in the bond resolution.

(f) The board shall fix and collect lease rentals, rentals, rates, charges, and fees, or any combination of them, from students or others for the occupancy, use, or availability of all or any of its property, buildings, structures, or other facilities in amounts which will be sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with any bonds issued under this section, and, to the extent required by the resolution authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the issuance of the bonds and for the payment of operation, maintenance, and other expenses in connection with the property, buildings, structures, or facilities.

(g) Fees for the use or availability of all or any property, buildings, structures, or facilities may be pledged to the payment of the bonds, and shall be fixed and collected in the manner determined and provided by the board in the resolution authorizing the issuance of the bonds. The board may pledge to the payment of the bonds all or any part of any resources of the board or association to the extent that the resources are permitted to be pledged to the payment of the revenue bonds. Each board may pledge to the payment of the bonds all or any part of any grant, donation, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise. (V.A.C.S. Art. 2919e—3, Sec. 20.)

§ 51.171. Revenue Refunding Bonds

Any revenue bonds issued by the board under this subchapter may be refunded, and in that case all pertinent and appropriate provisions of this subchapter are applicable to the refunding bonds. In refunding any of the bonds the board may, in the same authorizing proceedings, refund bonds issued under this subchapter and may combine all the refunding bonds with any other additional new bonds to be issued under this subchapter into one or more issues or series of bonds, and may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under terms and conditions set forth in the authorizing proceedings. (V.A.C.S. Art. 2919e—3, Sec. 21.)

§ 51.172. Approval of Bonds; Registration

All bonds issued under this subchapter shall be submitted to the attorney general for examination. If he finds that the bonds have been authorized in accordance with law, he shall approve them, and thereupon they shall be registered by the comptroller of public accounts. After the approval and registration the bonds are incontestable for any reason and are valid and binding obligations in accordance with their terms for all purposes. If the bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or lease made between the board and another party or parties, public agencies, or otherwise, a copy of the contract or lease and of the proceedings authorizing it may or may not be submitted to the attorney general along with the bond records. If submitted, then the approval by the attorney general of the bonds shall constitute an approval of the contract or lease, and thereafter the contract or lease shall be incontestable. (V.A.C.S. Art. 2919e—3, Sec. 22.)

§ 51.173. Bonds as Legal Investments

All bonds issued under this subchapter are legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas, and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. The bonds are eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant to them. (V.A.C.S. Art. 2919e—3, Sec. 23.)

[Sections 51.174 to 51.200 reserved for expansion]

SUBCHAPTER E. PROTECTION OF BUILDINGS AND GROUNDS**§ 51.201. Applicability of Criminal Laws**

All the general and criminal laws of the state are declared to be in full force and effect within the areas under the control and jurisdiction of the state institutions of higher education of this state. (V.A.C.S. Art. 2919j, Sec. 1.)

§ 51.202. Rules and Regulations; Penalty

(a) The governing board of each state institution of higher education, including public junior colleges, may promulgate rules and regulations for the safety and welfare of students, employees, and property, and other rules and regulations it may deem necessary to carry out the provisions of this subchapter and the governance of the institution, providing for the operation and parking of vehicles on the grounds, streets, drives, alleys, and any other institutional property under its control, including but not limited to the following:

- (1) limiting the rate of speed;
- (2) assigning parking spaces and designating parking areas and their use and assessing a charge for parking;
- (3) prohibiting parking as it deems necessary;
- (4) removing vehicles parked in violation of institutional rules and regulations or law at the expense of the violator; and

(5) instituting a system of registration for vehicle identification, including a reasonable charge.

(b) A person who violates any provision of this subchapter or any rule or regulation promulgated under the authority of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$200. (V.A.C.S. Art. 2919j, Sec. 2.)

§ 51.203. Campus Security Personnel

The governing boards of each state institution of higher education may employ campus security personnel for the purpose of carrying out the provisions of this subchapter and may commission them as peace officers. Any officer commissioned under this section is vested with all the powers, privileges, and immunities of peace officers while on the property under the control and jurisdiction of the institution of higher education or otherwise in the performance of his duties. Any officer assigned to duty and commissioned shall take and file the oath required of peace officers, and shall execute and file a good and sufficient bond in the sum of \$1,000, payable to the governor and his successors in office, with two or more good and sufficient sureties, conditioned that he will fairly, impartially, and faithfully perform all the duties that may be required of him by law. The bond may be sued on from time to time in the name of any person injured until the whole amount of the bond is recovered. (V. A.C.S. Art. 2919j, Sec. 3.)

§ 51.204. Trespass, Damage, Etc.

It is unlawful for any person to trespass on the grounds of any state institution of higher education of this state or to damage or deface any of the buildings, statues, monuments, memorials, trees, shrubs, grasses, or flowers on the grounds of any state institutions of higher education. (V.A.C.S. Art. 2919j, Sec. 4.)

§ 51.205. Parking; Blocking or Impeding Traffic

It is unlawful for any person to park a vehicle on any property under the control and jurisdiction of a state institution of higher education of this state except in the manner designated by the institution and in the spaces marked and designated by the governing board, or to block or impede traffic through any driveway of that property. All laws regulating traffic on highways and streets apply to the operation of vehicles within the property of the institution, except as may be modified in this subchapter. (V.A.C.S. Art. 2919j, Sec. 5.)

§ 51.206. Parking and Traffic Tickets; Summons; Arrest Warrants

In connection with traffic and parking violations, only the officers authorized to enforce the provisions of this subchapter have the authority to issue and use traffic tickets and summons of the type used by the Texas Highway Patrol, with any changes that are necessitated by reason of this subchapter. On the issuance of any parking or traffic ticket or summons, the same procedures shall be followed as prevail in connection with the use of parking and traffic violation tickets by the cities of this state and the Texas Highway Patrol. Nothing in this subchapter restricts the application and use of regular arrest warrants. (V.A.C.S. Art. 2919j, Sec. 6.)

§ 51.207. Vehicle Identification Insignia

Each institution may provide for the issuance and use of suitable vehicle identification insignia. The institution may bar or suspend the permit of any vehicle from driving or parking on any institutional property for the violation of any rule or regulation promulgated by the board as well as for any violation of this subchapter. Reinstatement of the

privileges may be permitted and a reasonable fee assessed. (V.A.C.S. Art. 2919j, Sec. 7.)

§ 51.208. Courts Having Jurisdiction

The judge of a municipal court or any justice of the peace of any city or county where property under the control and jurisdiction of a state institution of higher education is located is each separately vested with all jurisdiction necessary to hear and determine criminal cases involving violations of this subchapter or rules or regulations promulgated under this subchapter for which the punishment does not exceed a fine of \$200. (V.A.C.S. Art. 2919j, Sec. 8.)

§ 51.209. Unauthorized Persons: Refusal of Entry, Ejection, Identification

The governing board of a state institution of higher education or its authorized representatives may refuse to allow persons having no legitimate business to enter on property under the board's control, and may eject any undesirable person from the property on his refusal to leave peaceably on request. Identification may be required of any person on the property. (V.A.C.S. Art. 2919j, Sec. 9.)

§ 51.210. Enforcement of Rules and Regulations

Notwithstanding any of the provisions of this subchapter, all officers commissioned by the governing board of a state institution of higher education may be empowered by the board to enforce rules and regulations promulgated by the board. Nothing in this subchapter is intended to limit or restrict the authority of each institution to promulgate and enforce appropriate rules and regulations for the orderly conduct of the institution in carrying out its purposes and objectives or the right of separate jurisdiction relating to the conduct of its students and personnel. (V.A.C.S. Art. 2919j, Sec. 10.)

§ 51.211. Cumulative Effect

The provisions of this subchapter are cumulative of all other laws. (V.A.C.S. Art. 2919j, Sec. 12.)

§ 51.212. Security Officers at Private Institutions

(a) The governing boards of private institutions of higher education, including private junior colleges, are authorized to employ and commission campus security personnel for the purpose of enforcing the law of this state on the campuses of private institutions of higher education. Any officer commissioned under the provisions of this section is vested with all the powers, privileges, and immunities of peace officers while on the property under the control and jurisdiction of the respective private institution of higher education or otherwise in the performance of his assigned duties. Any officer assigned to duty and commissioned shall take and file the oath required of peace officers, and shall execute and file a good and sufficient bond in the sum of \$1,000, payable to the governor, with two or more good and sufficient sureties, conditioned that he will fairly, impartially, and faithfully perform the duties as may be required of him by law. The bond may be sued on from time to time in the name of the person injured until the whole amount is recovered.

(b) The governing boards of private institutions of higher education are authorized to hire and pay on a regular basis law-enforcement officers commissioned by an incorporated city. The officers shall be under the supervision of the hiring institution, but shall be subject to dismissal and disciplinary action by the city. An incorporated city is authorized to contract with a private institution of higher education for the use and

employment of its commissioned officers in any manner agreed to, provided that there is no expense incurred by the city. (V.A.C.S. Art. 5891A—1.)

[Sections 51.213 to 51.300 reserved for expansion]

SUBCHAPTER F. REQUIRED AND ELECTIVE COURSES

§ 51.301. Government or Political Science

Every college and university receiving state support or state aid from public funds shall give a course of instruction in government or political science which includes consideration of the Constitution of the United States and the constitutions of the states, with special emphasis on that of Texas. This course shall have a credit value of not less than six semester hours or its equivalent. No college or university receiving state support or state aid from public funds may grant a baccalaureate degree or a lesser degree or academic certificate to any person unless he has credit for such a course. The college or university may determine that a student has satisfied this requirement in whole or in part on the basis of credit granted to him by the college or university for a substantially equivalent course completed at another accredited college or university or on the basis of the student's successful completion of an advanced standing examination administered on the conditions and under the circumstances common for the college or university's advanced standing examinations. The college or university may grant as much as three semester hours of credit or its equivalent toward satisfaction of this requirement for substantially equivalent work completed by the student in the program of an approved senior R.O.T.C. unit. Credit for the advanced standing examination referred to above shall never exceed three semester hours. (V.A.C.S. Art. 2663b—1, Sec. 2.)

§ 51.302. American or Texas History

No college or university receiving state support or state aid from public funds may grant a baccalaureate degree or a lesser degree or academic certificate to any person unless he has credit for six semester hours or its equivalent in American History. A student is entitled to submit as much as three semester hours of credit or its equivalent in Texas History in partial satisfaction of this requirement. The college or university may determine that a student has satisfied this requirement in whole or part on the basis of credit granted to him by the college or university for a substantially equivalent course completed at another accredited college or university, or on the basis of the student's successful completion of an advanced standing examination administered on the conditions and under the circumstances common for the college or university's advanced standing examinations. The college or university may grant as much as three semester hours of credit or its equivalent toward satisfaction of this requirement for substantially equivalent work completed by a student in the program of an approved senior R.O.T.C. unit. Credit for the advanced standing examination referred to above shall never exceed three semester hours. (V.A.C.S. Art. 2663b—2, Sec. 1.)

§ 51.303. Elective Courses in Dactylogy

(a) In this section, "dactylogy" means the art of communicating ideas by signs made with the fingers, as in the manual alphabets of deaf-mutes.

(b) Any state college or university offering a fully accredited program for teachers of the deaf may offer a three-hour elective course in dactylogy. (V.A.C.S. Art. 2647c—1.)

§ 51.304. Courses in Military and Naval Training

(a) The governing board of any state-supported institution of higher education may request the United States Department of Defense to establish and maintain courses in military and naval training qualifying men student graduates of the courses for reserve commission awards as a part of its curriculum. The board may enter into mutually agreeable contracts for that purpose. The work of the students enrolling in the courses may be credited toward degree requirements under regulations prescribed by the board. (V.A.C.S. Art. 2919e—1.)

[Sections 51.305–51.350 reserved for expansion]

SUBCHAPTER G. OPTIONAL RETIREMENT SYSTEM**§ 51.351. Legislative Findings and Purpose**

The legislature finds that higher education is vitally important to the welfare, if not the survival, of Texas and the United States at this stage in history and that the quality of higher education is dependent upon the quality of college and university faculties. The legislature finds, therefore, that money spent on recognized means for producing an excellent system of public higher education is money spent to serve a public purpose of great importance. The legislature finds further that a sound faculty retirement program that provides full and complete retirement benefits to teachers and administrators who have given faithful service to state-supported institutions of higher education is a well-recognized means for improving a state's program of public higher education. The legislature's purpose in establishing the retirement program provided for by this subchapter is to improve further the higher education available to the youth at the state-supported colleges and universities and to establish this retirement program as part of the plan of compensation for the faculty of these colleges and universities. (V.A.C.S. Art. 2922—1i, Sec. 1.)

§ 51.352. Definitions

In this subchapter:

(1) "State Board of Trustees" means the State Board of Trustees of the Teachers Retirement System of Texas.

(2) "Retirement system" means the Teachers Retirement System of Texas.

(3) "Institution of higher education" has the same meaning as is assigned to it in Section 61.003 of this code, except that for the purposes of this subchapter, the Coordinating Board, Texas College and University System, and Texas State Technical Institute are included within, and the Rodent and Predatory Animal Control Service is excluded from, the meaning of the term.

(4) "Faculty member" means a person who is employed by an institution of higher education on a full-time basis as a member of the faculty or staff and whose duties include teaching, research, administration, including professional librarians, or the performance of professional services, but does not mean a person employed in a position which is in the institution's classified personnel system or a person employed in a similar type of position if the institution does not have a classified personnel system.

(5) "Governing board" means the body charged with policy direction of an institution of higher education.

(6) "Optional retirement program" means the program under this subchapter to provide fixed or variable retirement annuities, including retirement unit annuity certificates of participation for faculty members. (V.A.C.S. Art. 2922—1i, Sec. 2.)

§ 51.353. Establishment; Participation

(a) There is hereby established an optional retirement program. Participation in the optional retirement program is in lieu of active membership in the retirement system. The governing boards of all institutions of higher education shall make available to all faculty members in their component institutions, agencies, and units the optional retirement program which shall provide for the vesting of benefits after one year of participation in one or more plans operating pursuant to this Act in one or more institutions of higher education. (S.B.No.421, 62nd Legis., Reg.Sess., 1971.)

(b) All faculty members are eligible to participate in the optional retirement program, subject to such rules as may be prescribed by the governing board of the institution of higher education at which they are employed. (V.A.C.S. Art. 2922—1i, Sec. 3.)

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 3357, ch. 1024, Art. 2, § 35, eff. Sept. 1, 1971.

§ 51.354. Administration

In administering the optional retirement program a governing board may provide for the purchase of annuity contracts from any insurance or annuity company qualified and admitted to do business in this state. Any life insurance or annuity company qualified and admitted to do business in this state shall be exempt from the payment of all franchise or premium taxes as to all annuity or group insurance contracts made pursuant to a benefit program authorized by the governing board of an institution of higher education, or by any private nonprofit educational institution of higher learning, which benefit program is paid for in whole or in part from the funds of such institution. Where a governing board has more than one component institution, agency, or unit under its jurisdiction, it may provide a separate optional retirement program for each component institution, agency, or unit, or place two or more component institutions, agencies, or units under a single program. (V.A.C.S. Art. 2922—1i, Sec. 4.)

§ 51.355. Options

A faculty member who becomes eligible to participate in the optional retirement program and who is a member of the retirement system is hereby extended the option of continuing his membership in the retirement system or participating in the optional retirement program as hereinafter set forth. A faculty member who is eligible to participate in the optional retirement program on the date the optional retirement program becomes available at the institution of higher education at which he is employed, no later than the 1st day of August of the calendar year following the date on which the optional retirement program becomes available at the institution of higher education at which he is employed, shall elect to participate or not to participate in the optional retirement program. A faculty member who becomes eligible to participate in the optional retirement program subsequent to the date on which the optional retirement program becomes available at the institution of higher education at which he is employed shall make such election within 90 days following the date on which he becomes eligible to participate in the optional retirement program. A faculty member exercising the option to participate in the optional retirement program shall not thereafter be eligible for membership in the retirement system unless he ceases to be employed by an institution of higher education and becomes employed by the Texas Public School System other than in an institution of higher education. A faculty member not exercising the option to participate in the optional retirement program shall be deemed to have chosen to continue membership

in the retirement system in lieu of exercising the option to participate in the optional retirement program. (V.A.C.S. Art. 2922—1i, Sec. 5.)

§ 51.356. Withdrawal of Contributions to Retirement System

A faculty member who elects or who has elected to participate in the optional retirement program as provided under Section 51.355 of this code may further elect to withdraw from the retirement system his accumulated contributions as defined in Chapter 3 of this code, upon application in writing as prescribed by the State Board of Trustees, and the applicable amounts shall be paid within 12 months from the date the application is received. Upon such withdrawal of funds, the faculty member shall thereby forfeit and relinquish all accrued rights as a member of the retirement system. (V.A.C.S. Art. 2922—1i, Sec. 6.)

§ 51.357. Contributions

(a) With respect to a faculty member who has elected in accordance with Section 51.355 of this code to participate in the optional retirement program, the following amounts shall be disbursed and credited each fiscal year to the benefit of the faculty member in the optional retirement program:

(1) by the faculty member the amount that he would have been required to deposit during that year as a member of the retirement system; and

(2) by the state the amount that it would have been required to allocate and contribute during that year to the retirement system to the credit of the faculty member as a member of the retirement system.

(b) A faculty member participating in the optional retirement program and the institution of higher education with which he is employed, acting through its governing board, may enter into an agreement under which the salary paid to the faculty member is reduced by the amount of the faculty member's contribution required to be disbursed and credited under Subdivision (1) of Subsection (a), and under which the institution contributes an equal amount to the purchase of an annuity contract under the optional retirement program established by the respective governing board. Not more than one salary reduction agreement shall be entered into in any calendar year. Each salary reduction agreement shall be legally binding and irrevocable with respect to amounts earned while the agreement is in effect, if the agreement so provides by its terms. A salary reduction agreement may be terminable with respect to amounts not yet earned. To the extent that a salary reduction agreement is in force with a faculty member, there shall be no deduction from the salary of the faculty member, and the amounts provided in this section shall be disbursed and credited to the benefit of the faculty member as provided in Subdivision (1) of Subsection (a).

(c) The contributions of faculty members participating in the optional retirement program in each institution of higher education shall be deducted as provided by law applicable to the system or reduced under an agreement described in Subsection (b) of this section. The contribution of the state for faculty members participating in the optional retirement program in each institution of higher education shall be paid by the Comptroller of Public Accounts of the State of Texas to the applicable institution of higher education. The disbursing officer of such institution of higher education shall pay the total of such contributions from both the faculty member and the state to the company providing the optional retirement program for that institution. Each institution of higher education shall certify estimates to the comptroller of funds required for payments under its optional retirement program as required by law for the system. (V.A.C.S. Art. 2922—1i, Sec. 8.)

[Sections 51.358 to 51.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

§ 51.901. Liability Insurance for Operators of Atomic Energy Reactors

(a) The governing boards of the state institutions of higher education, as state agencies, which are or will be constructing and operating atomic energy reactors, or otherwise performing experiments in the field of nuclear science, in cooperation with and licensed by the Atomic Energy Commission, or its successor in function, or any other governmental agency, may purchase liability insurance in any amount not to exceed \$250,000, and may pay the premium from funds appropriated for that purpose.

(b) The defense of sovereign immunity shall not be available to or asserted by the insurer in any claim against it or in any cause of action arising or growing out of a nuclear incident. (V.A.C.S. Art. 4590g.)

§ 51.902. Contracts for Teacher Training

The governing board of any state-supported institution of higher education which trains teachers may contract with the trustees of any independent school district for the use of the public schools of the school district as laboratory schools for the training of teachers. The available local funds of the institution or the local funds of the school district may be used in the performance of the contracts. (V.A.C.S. Art. 2647c.)

§ 51.903. Archives; Certified Copies

(a) The commissioners court of any county or any other custodian of public records may lend to the library of any state-supported institution of higher education, for any period and on any conditions it may determine, any parts of its archives or records that have become mainly of historical value. The librarian shall give a receipt for any archives or records received. The librarian may make copies for historical study.

(b) The librarian and the archivist of any state-supported institution of higher education are authorized to make certified copies of public records in the custody of the institution. These certified copies are valid in law and have the same force and effect for all purposes as if certified by the county clerk or other custodian as otherwise provided by law. In making a certified copy, the librarian or archivist shall certify that the foregoing is a true and correct copy of the document, and after signing the certificate shall swear to it before any officer authorized to take oaths under the laws of this state.

(c) Nothing in this section affects the authority of the Texas State Librarian concerning public records as currently or later granted by law. (V.A.C.S. Art. 2899b.)

§ 51.904. Street Closing

The governing body of a state-supported college or university in a county having a population in excess of 1,500,000 may vacate, abandon, and close a street or alley running through the campus if the state-supported college or university owns all of the real property abutting the street or alley. (S.B.No.318, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3338, ch. 1024, Art. 2, § 5, eff. Sept. 1971.

§ 51.905. State-Owned Museum Buildings

(a) The governing board of each state-supported institution of higher education commonly referred to as a senior college shall formulate and adopt reasonable rules and regulations for the use of a state-owned mu-

seum building located on its campus, including the designation of rooms or areas in honor of donors or other benefactors, if appropriate, and shall administer the expenditure of all state funds appropriated for construction, equipment, operation, maintenance, or improvement of such museum, including restoration or refurbishing of collections.

(b) A historical society or group incorporated as a nonprofit organization may not house an exhibit or collection in a state-owned museum building located on a campus referred to in Subsection (a) of this section if a member of a governing group elected by the board of directors of the nonprofit corporation to administer the affairs of the corporation is elected to succeed himself after serving two consecutive one-year terms.

(c) If state funds appropriated for construction, equipment, operation, maintenance, or improvement of a museum located on a college or university campus referred to in Subsection (a) of this section are used or expended conjunctively with funds belonging to a historical society or group incorporated as a nonprofit organization, the state auditor is granted authority and it shall be his duty to perform an audit of all accounts, books, and other financial records of the state government and the nonprofit corporation pertaining to the expenditure of funds which have been used or expended jointly for constructing, equipping, operating, maintaining, or improving such museum. The state auditor shall prepare a written report or reports of such audit or audits to the legislative audit committee and the governing board of the state-supported institution of higher education.

(d) No employee of a museum located on a campus referred to in Subsection (a) of this section, who is paid in whole or in part by state funds may be employed or discharged except with the approval and consent of the governing board of the state-supported institution on which campus the museum is located. (S.B.No.1021, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3361, ch. 1024, Art. 2, § 42, eff. Sept. 1, 1971.

CHAPTER 52. STUDENT LOAN PROGRAM

SUBCHAPTER A. ADMINISTRATION

Section

52.01. Administration.

52.02. Delegation of Powers and Duties.

[Sections 52.03–52.10 reserved for expansion]

SUBCHAPTER B. BONDS

52.11. Issuance of Bonds.

52.12. Refunding Bonds.

52.13. Bonds as Investments.

52.14. Sale of Bonds.

52.15. Competitive Bids.

52.16. Proceeds from Bond Sale.

52.17. Interest and Sinking Fund.

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[Sections 52.20 to 52.30 reserved for expansion]

SUBCHAPTER C. STUDENT LOANS**Section**

- 52.31. Participating Institutions.
- 52.32. Qualifications for Loans.
- 52.33. Amount of Loan.
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- 52.38. Repayment of Loans.
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[Sections 52.40 to 52.50 reserved for expansion]

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- 52.51. Advisory Committees.
- 52.52. Contracts.
- 52.53. Gifts and Grants.
- 52.54. Rules and Regulations.
- 52.55. Audit.
- 52.56. Annual Report.

SUBCHAPTER A. ADMINISTRATION**Section 52.01. Administration**

The Coordinating Board, Texas College and University System, or its successors, shall administer the student loan program authorized by this chapter pursuant to Article III, Section 50b, of the Texas Constitution. Personnel and other expenses required to properly administer this chapter shall be provided in the general appropriations acts. (V.A.C.S. Art. 2654g, Art. I, Sec. 1.)

§ 52.02. Delegation of Powers and Duties

The board may delegate to the commissioner of higher education the powers, duties, and functions authorized by this chapter, except those relating to the sale of bonds and the letting of contracts for insurance. (V.A.C.S. Art. 2654g, Art. I, Sec. 2.)

[Sections 52.03 to 52.10 reserved for expansion]

SUBCHAPTER B. BONDS**§ 52.11. Issuance of Bonds**

(a) The board may from time to time provide by resolution for the issuance of negotiable bonds in a total aggregate amount not exceeding \$285 million.

(b) All bonds shall be on a parity and shall be called the Texas College Student Loan Bonds.

(c) The proceeds from the sale of bonds shall be placed in the Texas Opportunity Plan Fund.

(d) To assure the orderly and economical marketing of the bonds and the reasonable availability of money in the Texas Opportunity Plan Fund, the bonds may be issued in installments.

(e) The bonds of each issue shall be dated and shall bear interest at rates prescribed by the board, subject to the limitations imposed by law. At the option of the board, the interest may be payable annually or semi-annually.

(f) The bonds shall mature serially or otherwise not later than 40 years from their date and may be redeemable before maturity, at the option of the board, at a price or prices and under terms and conditions fixed by the board in the resolution providing for the issuance of the bonds.

(g) The board shall determine the form of the bonds, including the form of any interest coupon to be attached to the bonds, and shall fix the denomination or denominations of the bonds and the place or places for the payment of the principal and interest.

(h) The bonds shall be executed on behalf of the coordinating board, or its successor, as general obligations of the State of Texas in the following manner: They shall be signed by the chairman or vice chairman and the secretary of the board, and the seal of the board shall be impressed on them. They shall be signed by the governor and attested by the secretary of state and the seal of the state impressed on them. The resolution authorizing the issuance of any installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals may be used in executing the bonds and appurtenant coupons. Interest coupons may be signed with the facsimile signatures of the chairman or vice chairman and the secretary of the board. In the event any officer whose manual or facsimile signature appears on any bond or coupon ceases to hold that office before the delivery of the bond or coupon, the signature will nevertheless be valid and sufficient for all purposes as if he had remained in office until the delivery had been made.

(i) The resolution may provide for registration of the bonds as to ownership and for successive conversion and reconversion from registered to bearer bonds and vice versa.

(j) Before any of the bonds issued are delivered to the purchasers, the record pertaining to the bonds shall be examined by the attorney general and the records and the bonds shall be approved by him. After approval by the attorney general, the bonds shall be registered in the office of the comptroller of public accounts. When approved, registered, and delivered to the purchasers, the bonds are incontestable and constitute general obligations of the State of Texas.

(k) The performance of official duties prescribed by Article III, Section 50b, of the Texas Constitution, in reference to the provision for the payment and the payment of the bonds may be enforced in any court of competent jurisdiction through mandamus or other appropriate proceedings.

(l) All bonds issued in accordance with the provisions of this chapter are negotiable instruments under the laws of this state.

(m) The board may provide for the replacement of any bond which is mutilated, lost, or destroyed. (V.A.C.S. Art. 2654g, Art. II, Sec. 1.)

§ 52.12. Refunding Bonds

(a) The board may provide by resolution for the issuance of refunding bonds for the purpose of refunding any bonds issued under the provisions of this chapter and then outstanding, together with accrued interest on them.

(b) The issuance of the refunding bonds, the maturities, and all other details of the bonds, the rights of the holders, and the duties of the board with respect to the bonds, shall be governed by the applicable provisions of Section 52.11 of this code.

(c) The refunding bonds may be exchanged for the outstanding bonds or may be sold and the proceeds used to retire the outstanding bonds. (V.A.C.S. Art. 2654g, Art. II, Sec. 2.)

§ 52.13. Bonds as Investments

All bonds issued pursuant to the provisions of this chapter are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and all other political subdivisions and public agencies of the State of Texas. The bonds, when accompanied by all unmatured coupons appurtenant to them, are lawful and sufficient security for all deposits of state funds and of all funds of any agency or political subdivision of the state, and of counties, school districts, cities, and all other municipal corporations or subdivisions at the par value of the bonds. The bonds and the income from them, including the profits made on their sale, shall at all times be free from taxation in this state. (V.A.C.S. Art. 2654g, Art. II, Sec. 3.)

§ 52.14. Sale of Bonds

When the board has authorized the issuance of a series of bonds and has determined to call for bids on the bonds, it shall publish an appropriate notice of the sale at least one time not less than 20 days before the date of the sale. The publication shall be made in a daily newspaper of general statewide circulation which is published not less than seven times weekly. The notice shall also be published for a number of times determined by the board in one or more recognized financial publications of general circulation published in the state and one or more of these publications published outside the state. The board shall demand of bidders, other than the administrators of the state funds, that each bid be accompanied by an exchange or bank cashier's check for a sum considered adequate by the board to be a forfeit guaranteeing the acceptance of and payment for all bonds covered by each bid accepted by the board. (V.A.C.S. Art. 2654g, Art. II, Sec. 4.)

§ 52.15. Competitive Bids

No installment or series of bonds may be sold for an amount less than the face value of all the bonds comprising the installment or series with accrued interest from their date, and all bonds shall be sold after competitive bidding to the highest and best bidder. The board may reject any and all bids. (V.A.C.S. Art. 2654g, Art. II, Sec. 5.)

§ 52.16. Proceeds from Bond Sale

All proceeds from the sale of bonds shall be deposited in the state treasury in the Texas Opportunity Plan Fund. (V.A.C.S. Art. 2654g, Art. II, Sec. 6.)

§ 52.17. Interest and Sinking Fund

(a) Each fiscal year a sufficient portion of the funds received by the board as repayment of student loans granted under this chapter and as interest on the loans shall be deposited in the state treasury in the Texas College Student Loan Bonds Interest and Sinking Fund, referred to in this chapter as the interest and sinking fund, to pay the interest and principal coming due during the ensuing fiscal year and to establish and maintain a reserve in the interest and sinking fund equal to the average annual principal and interest requirements of all outstanding bonds issued under this chapter.

(b) If in any year funds are received in excess of the foregoing requirements, then the excess shall be deposited in the Texas Opportunity Plan Fund and may be used for the same purposes and upon the same

terms and conditions prescribed for the proceeds derived from the sale of the Texas College Student Loan Bonds.

(c) In the event that funds received by the board in any fiscal year as repayment of student loans and as interest on the loans are insufficient to pay the interest coming due and the principal maturing on the bonds during the ensuing fiscal year, the state treasurer shall transfer into the interest and sinking fund out of the first money coming into the treasury, which is not otherwise appropriated by the constitution, an additional amount sufficient to pay the interest coming due and the principal maturing on the bonds during the ensuing fiscal year.

(d) The resolution authorizing the issuance of the bonds may provide for the deposit, from bond proceeds, of not more than 24 months' interest, and may provide for the use of bond proceeds as a reserve for the payment of principal of and interest on the bonds. (V.A.C.S. Art. 2654g, Art. II, Sec. 7.)

§ 52.18. Duties of Comptroller and Treasurer

The comptroller of public accounts shall make the transfers required under the provisions of this chapter, and the state treasurer shall pay or cause to be paid the principal of and interest on the bonds as they mature and come due. (V.A.C.S. Art. 2654g, Art. II, Sec. 8.)

§ 52.19. Investment of Funds

All money standing to the credit of the reserve portion of the interest and sinking fund and any money in the Texas Opportunity Plan Fund in excess of the amount necessary for student loans may be invested by the board in direct obligations of or obligations the principal and interest of which are guaranteed by the United States of America or invested in direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Bank, federal land banks, Federal National Mortgage Association, federal home loan banks, banks for cooperatives, and in certificates of deposit of any bank or trust company the deposits of which are fully secured by a pledge of securities of any of the kind previously specified in this section, or in bonds of the State of Texas, or of the several counties or municipalities or other political subdivisions of the State of Texas. However, money in the interest and sinking fund, except for that which is in the reserve portion of the fund, may be invested only in obligations which are scheduled to mature prior to the date money must be available for use for its intended purpose. All the bonds and obligations owned in the interest and sinking fund or in the Texas Opportunity Plan Fund are defined as "securities." The board may sell any securities owned in the interest and sinking fund or in the Texas Opportunity Plan Fund at the prevailing market price. Income from these investments shall be deposited in the interest and sinking fund. (V.A.C.S. Art. 2654g, Art. II, Sec. 9.)

[Sections 52.20 to 52.30 reserved for expansion]

SUBCHAPTER C. STUDENT LOANS

§ 52.31. Participating Institutions

A participating higher educational institution is any institution of higher education, public or private nonprofit, including a junior college, which is recognized or accredited by the Texas Education Agency or the Coordinating Board, Texas College and University System, or its successors, and which complies with the provisions of this chapter and the rules and regulations of the board promulgated in accordance with this chapter. (V.A.C.S. Art. 2654g, Art. III, Sec. 1.)

§ 52.32. Qualifications for Loans

(a) The board may authorize loans from the Texas Opportunity Plan Fund to qualified students at any participating institution of higher education in Texas if the applicant:

- (1) is a resident of Texas as defined by the board in accordance with Subchapter B, Chapter 54 of this code;
- (2) has been accepted for enrollment;
- (3) has established that he has insufficient resources to finance his college education;
- (4) has been recommended by reputable persons in his home community; and
- (5) has complied with other requirements established by rules and regulations adopted by the board in conformity with this chapter.

(b) In no event may a higher standard of academic performance be required of an applicant than the minimum standard required for enrollment in the participating institution. The student must be meeting the minimum academic requirements of the institution in the semester any loan is made. (V.A.C.S. Art. 2654g, Art. III, Sec. 2.)

§ 52.33. Amount of Loan

The amount of the loan to any qualified applicant shall be limited to the difference between the financial resources available to him, including but not limited to his income from parents and other sources, scholarships, gifts, grants, other financial aid, and the amount he can reasonably be expected to earn, and the amount necessary to pay his reasonable expenses as a student at the participating institution of higher education where he has been accepted for enrollment, under the rules and regulations adopted by the board. The total loan to any individual student may never be more than the amount he can reasonably be expected to repay in a maximum period of five years after he is last enrolled in a participating institution, except as otherwise provided for in this chapter. (V.A.C.S. Art. 2654g, Art. III, Sec. 3.)

§ 52.34. Payments to Student

No payment may be made to any student until he has executed a note payable to the Texas Opportunity Plan Fund for the full amount of the authorized loan plus interest. For the purposes of this chapter, a student has the capacity to contract and is bound by any contract executed by him, and the defense that he was a minor at the time he executed the note is not available to him in any action arising on the note. Payments to students executing notes may be made annually, semiannually, quarterly, monthly, or for each semester as the board may determine, depending on the demonstrated capacity of the student to manage his financial affairs. Disbursements may be made by the board or by the participating institution pursuant to a contract between the board and the institution executed in conformity with this chapter. No funds may be distributed to a participating institution except to make payments to a student under a loan authorized by this chapter. (V.A.C.S. Art. 2654g, Art. III, Sec. 4.)

§ 52.35. Term of Loans

The term of all authorized loans must be for the shortest possible period, as determined by the board. However, no loan may be made to any student for a period longer than 10 years from the date he is last enrolled in a participating institution, except as a longer period is authorized for medical students, dental students, and students seeking professional or graduate degrees as authorized under the provisions of Section 52.38 of this code. (V.A.C.S. Art. 2654g, Art. III, Sec. 5.)

Amended by Acts 1971, 62nd Leg., p. 3102, ch. 1024, Art. 2, § 7, eff. Sept. 1, 1971.

§ 52.36. Loan Interest

The board shall annually, not later than September 1, fix the interest to be charged for any student loan at a rate sufficient to pay the interest on outstanding bonds plus any expenses incident to their issuance, sale, and retirement. Interest shall be postponed by the board as long as a student is enrolled at a participating institution and may be postponed at the board's discretion as long as a student is enrolled at any other higher educational institution, provided that the total interest paid is to be equal to that fixed at the time the note evidencing the loan is executed. (V.A.C.S. Art. 2654g, Art. III, Sec. 6.)

§ 52.37. Insurance

The board may contract with any insurance company or companies licensed to do business in Texas for insurance on the life of any student borrower in an amount sufficient to retire the principal and interest owed under a loan made under the provisions of this chapter. The cost of the insurance shall be paid by the student borrower. No contract for insurance as provided for in this section may be approved except by the board during a regular meeting attended by a quorum of the total board membership. (V.A.C.S. Art. 2654g, Art. III, Sec. 7.)

§ 52.38. Repayment of Loans

Repayment of any loan and interest authorized under this chapter shall be made monthly and shall begin not later than nine months after the date the student borrower is last enrolled in a participating institution or any other institution of higher education and in no event later than five years from the date the first note evidencing a loan under this chapter is executed. The board may, however, authorize a longer period before beginning repayment of loans to medical students, dental students, and other students seeking professional or graduate degrees. The board may extend the time for beginning repayment for unusual financial hardships, with the approval of the attorney general. Repayment shall be made directly to the board or to a participating institution pursuant to a contract executed by the board in accordance with its rules and regulations. (V.A.C.S. Art. 2654g, Art. III, Sec. 8.)

Amended by Acts 1971, 62nd Leg., p. 3103, ch. 1024, Art. 2, § 7, eff. Sept. 1, 1971.

§ 52.39. Default; Suit

When any person who has received a loan authorized by this chapter has failed or refused to make as many as six monthly payments due in accordance with an executed note, then the full amount of the remaining principal and interest becomes due and payable immediately, and the amount due, the person's name and his last known address, and other necessary information shall be reported by the board to the attorney general. Suit for the remaining sum shall be instituted by the attorney general, or any county or district attorney acting for him, in the county of the person's residence, the county in which is located the institution at which the person was last enrolled, or in Travis County, unless the attorney general finds reasonable justification for delaying suit and so advises the board in writing. (V.A.C.S. Art. 2654g, Art. III, Sec. 9.)

[Sections 52.40 to 52.50 reserved for expansion]

SUBCHAPTER D. GENERAL PROVISIONS

§ 52.51. Advisory Committees

The board may appoint advisory committees from outside its membership as it deems necessary to assist it in achieving the purposes of this chapter. (V.A.C.S. Art. 2654g, Art. IV, Sec. 1.)

§ 52.52. Contracts

In achieving the goals outlined in this chapter and the performance of functions assigned to it, the board may contract with any other state governmental agency as authorized by law, with any agency of the United States, and with corporations, associations, partnerships, and individuals. (V.A.C.S. Art. 2654g, Art. IV, Sec. 2.)

§ 52.53. Gifts and Grants

The board may accept gifts, grants, or donations of real or personal property from any individual, group, association, or corporation or the United States, subject to limitations or conditions set by law. The gifts, grants, or donations of money shall be deposited in the Texas Opportunity Plan Fund, separately accounted for, and expended in accordance with the specific purpose for which given and under such conditions as are imposed by the donor and as provided by law. (V.A.C.S. Art. 2654g, Art. IV, Sec. 3.)

§ 52.54. Rules and Regulations

(a) The board shall adopt and publish rules and regulations to effectuate the purposes of this chapter in accordance with and under the conditions applied to other agencies by Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252—13, Vernon's Texas Civil Statutes).

(b) The board may adopt rules and regulations necessary for participation in the federal guaranteed loan program provided by the Higher Education Act of 1965 (Public Law 89-329).¹ (S.B.No.527, 62nd Legis., Reg.Sess., 1971.) (V.A.C.S. Art. 2654g, Art. IV, Sec. 4.) Amended by Acts 1971, 62nd Leg., p. 3340, ch. 1024, Art. 2, § 7, eff. Sept. 1, 1971.

¹ See 20 U.S.C.A. § 421 et seq.

§ 52.55. Audit

All transactions under the provisions of this chapter are subject to audit by the state auditor. (V.A.C.S. Art. 2654g, Art. IV, Sec. 5.)

§ 52.56. Annual Report

(a) The board shall make a report of the operations of the Texas Opportunity Plan to the governor annually and to the legislature not later than December 1 prior to the regular session of the legislature.

(b) The report shall include, for the state as a whole and for each participating institution, the following information:

- (1) the number of loans;
- (2) the maximum loan;
- (3) the minimum loan;
- (4) the total amount of loans made;
- (5) a list of persons who have failed or refused to make as many as six monthly payments on any note, showing the amount due and the person's last known address; and
- (6) any other information that will describe the effectiveness of the loan program. (V.A.C.S. Art. 2654g, Art. IV, Sec. 6.)

CHAPTER 53. HIGHER EDUCATION AUTHORITIES**SUBCHAPTER A. GENERAL PROVISIONS****Section**

- 53.01. Short Title.
53.02. Definitions.

[Sections 53.03–53.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 53.11. Creation of Authority.
53.12. Territory.
53.13. Corporate Powers.
53.14. Board of Directors.
53.15. Organization of Board; Quorum; Employees; Counsel.

[Sections 53.16–53.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

- 53.31. No Taxing Power.
53.32. No Power of Eminent Domain.
53.33. Facilities: Construction, Acquisition, Etc.
53.34. Revenue Bonds.
53.35. Issuance of Bonds; Procedures; Etc.
53.36. Bond Resolution; Notice; Election.
53.37. Junior Lien Bonds; Parity Bonds.
53.38. Reserves for Operating and Other Expenses.
53.39. Refunding Bonds.
53.40. Approval of Bonds; Registration; Negotiability.
53.41. Authorized Investments.
53.42. Investment of Funds; Security.
53.43. Depositories.
53.44. Operation of Facilities; Rates Charged; Reserve Funds.
53.45. Transactions with Other Agencies and Persons.
53.46. Authority Exempt from Taxation.

SUBCHAPTER A. GENERAL PROVISIONS**Section 53.01. Short Title**

This chapter may be cited as the Higher Education Authority Act. (V. A.C.S. Art. 1269j—101, Sec. 1 (part).)

§ 53.02. Definitions

In this chapter:

- (1) "City" means an incorporated city or town in this state.
- (2) "Governing body" means the council, commission, or other governing body of a city.
- (3) "Authority" means a higher education authority created under this chapter.
- (4) "Board" means the board of directors of an authority.
- (5) "Institution of higher education" means a degree-granting college or university nonprofit corporation accredited by the Texas Education Agency.

(6) "Educational facility" means a classroom building, laboratory, science building, faculty or administrative office building, or other facility used exclusively for the conduct of the educational and administrative functions of an institution of higher education.

(7) "Housing facility" means a single- or multi-family residence used exclusively for housing or boarding, or housing and boarding students, faculty, or staff members of an institution of higher learning. The term includes infirmary and student union building, but does not include a housing or boarding facility for the use of a fraternity, sorority, or private club.

(8) "Bond resolution" means the resolution authorizing the issuance of revenue bonds.

(9) "Trust indenture" means the mortgage, deed of trust, or other instrument pledging revenue of property, or creating a mortgage lien on property, or both, to secure the revenue bonds issued by the authority.

(10) "Trustee" means the trustee under the trust indenture. (V.A.C.S. Art. 1269j—101, Sec. 2.)

[Sections 53.03 to 53.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 53.11. Creation of Authority

When the governing body of a city finds that it is to the best interest of the city and its inhabitants to create a higher education authority, it shall pass an ordinance creating the authority and designating the name by which it shall be known. If the governing bodies of two or more cities find that it is to the best interest of the cities to create an authority to include those cities, each governing body shall pass an ordinance creating the authority and designating the name by which it shall be known. (V. A.C.S. Art. 1269j—101, Sec. 3 (part).)

§ 53.12. Territory

The authority comprises only the territory included within the boundaries of the city or cities creating it. (V.A.C.S. Art. 1269j—101, Sec. 3 (part).)

§ 53.13. Corporate Powers

An authority is a body politic and corporate having the power of perpetual succession. It shall have a seal; it may sue and be sued; and it may make, amend, and repeal its bylaws. (V.A.C.S. Art. 1269j—101, Sec. 3 (part).)

§ 53.14. Board of Directors

(a) The authority shall be governed by a board of directors consisting of not less than 7 nor more than 11 members to be determined at the time of creating the authority. Except as otherwise provided by this section, the first directors shall be appointed by the governing body of the city or by the governing bodies of the cities, and they shall serve until their successors are appointed as provided by this section. If the authority includes more than one city, each governing body shall appoint an equal number of directors unless otherwise agreed by the cities.

(b) When the authority issues its revenue bonds, the resolution authorizing the issuance of the bonds or the trust indenture securing them may prescribe the method of selecting and the term of office of a majority of the members of the board. The remaining members of the board shall be appointed by the governing body of the city or the governing bodies of

the cities for two-year terms. The trust indenture may also provide that, in event of default as defined in the trust indenture, the trustee may appoint all of the directors, in which event the terms of the directors then in office shall automatically terminate.

(c) Unless and until provision is made in the bond resolution or indenture in connection with the issuance of bonds for the appointment by other means of part of the directors, all the directors shall be appointed by the governing body of the city or each of the cities, as the case may be, for terms not to exceed two years, but the terms of directors appointed prior to the issuance of the first issue of revenue bonds shall be subject to the exercise of the provision made by this section for appointment of a majority of the members of the board in connection with the issuance of the bonds.

(d) No officer or employee of any such city is eligible for appointment as a director. Directors are not entitled to compensation for services but are entitled to reimbursement for expenses incurred in performing such service.

(e) In the event the authority purchases from a nonprofit corporation an educational facility or a housing facility for students, faculty, or staff members, which facility or facilities are then in existence or in process of construction, the first members of the board of directors and their successors shall be determined as provided in the contract of purchase. (V. A.C.S. Art. 1269j—101, Sec. 4.)

§ 53.15. Organization of Board; Quorum; Employees; Counsel

(a) The board shall elect from among its members a president and vice president, and shall elect a secretary and a treasurer who may or may not be directors, and may elect other officers as authorized by the authority's bylaws. The offices of secretary and treasurer may be combined.

(b) The president has the same right to vote on all matters as other members of the board.

(c) A majority constitutes a quorum, and when a quorum is present action may be taken by a majority vote of directors present.

(d) The board may employ a manager or executive director of the facilities and other employees, experts, and agents as it sees fit. It may delegate to the manager the power to employ and discharge employees.

(e) The board may employ legal counsel. (V.A.C.S. Art. 1269j—101, Sec. 5.)

[Sections 53.16 to 53.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 53.31. No Taxing Power

An authority has no power to tax. (V.A.C.S. Art. 1269j—101, Sec. 1 (part).)

§ 53.32. No Power of Eminent Domain

The authority does not have the power of eminent domain. (V.A.C.S. Art. 1269j—101, Sec. 17 (part).)

§ 53.33. Facilities: Construction, Acquisition, etc.

The authority may acquire by purchase, purchase contract, or lease, or may construct, enlarge, extend, or improve educational facilities or housing facilities. It may acquire land for those purposes, furnish and equip the facilities, and provide by contract, lease, or otherwise for the operation and maintenance of the facilities. The facilities need not be located

within the city limits of the city or cities. (V.A.C.S. Art. 1269j—101, Sec. 6.)

§ 53.34. Revenue Bonds

The authority may issue revenue bonds to provide funds for any of its purposes. The bonds shall be payable from and secured by a pledge of the net revenue to be derived from the operation of the facility or facilities and any other revenue resulting from the ownership of the educational facilities properties. The bonds may be additionally secured by a mortgage or deed of trust on real property of the authority or by a chattel mortgage on its personal property, or by both. (V.A.C.S. Art. 1269j—101, Sec. 7.)

§ 53.35. Issuance of Bonds; Procedures; etc.

The bonds shall be authorized by resolution adopted by a majority vote of a quorum of the board, and shall be signed by the president or vice president and countersigned by the secretary, or either or both of their facsimile signatures may be printed on them. The seal of the authority shall be impressed or printed on the bonds. The bonds shall mature serially or otherwise in not to exceed 50 years and may be sold at a price and under terms determined by the board to be the most advantageous reasonably obtainable, provided that the rate of interest to be borne by the bonds shall not exceed six and one-half percent per annum and that the bonds shall not be sold at less than 90 percent of their par or face value, plus accrued interest. Within the discretion of the board, the bonds may be made callable prior to maturity at any times and prices prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest. (V.A.C.S. Art. 1269j—101, Sec. 8.)

§ 53.36. Bond Resolution; Notice; Election

(a) Before authorizing the issuance of bonds, other than refunding bonds, the board shall cause a notice to be issued stating that it intends to adopt a resolution authorizing the issuance of the bonds, the maximum amount thereof, and the maximum maturity thereof. The notice shall be published once each week for two consecutive weeks in a newspaper or newspapers having general circulation in the authority. The first publication shall be at least 14 days prior to the day set for adopting the bond resolution.

(b) If, prior to the day set for the adoption of the bond resolution, there is presented to the secretary or president of the board a petition signed by not less than 10 percent of the qualified voters residing in the city or cities comprising the authority, who own taxable property in the authority and who have duly rendered it for taxation to the city in which such property is located or situated, requesting an election on the proposition for the issuance of the bonds, the bonds shall not be issued unless an election is held and a majority vote is in favor of the bonds. The election shall be called and held in accordance with the procedure prescribed in Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, with the board and the president and secretary performing the functions there assigned to the governing body of the city, the mayor and city secretary, respectively. If no such petition is filed, the bonds may be issued without an election. However, the board may call an election on its own motion without the filing of the petition. (V.A.C.S. Art. 1269j—101, Sec. 9.)

§ 53.37. Junior Lien Bonds; Parity Bonds

Bonds constituting a junior lien on the net revenue or properties may be issued unless prohibited by the bond resolution or trust indenture.

Parity bonds may be issued under conditions specified in the bond resolution or trust indenture. (V.A.C.S. Art. 1269j—101, Sec. 10.)

§ 53.38. Reserves for Operating and Other Expenses

Money for the payment of not more than two years' interest on the bonds and an amount estimated by the board to be required for operating expenses during the first year of operation may be set aside for those purposes out of the proceeds from the sale of the bonds. (V.A.C.S. Art. 1269j—101, Sec. 11.)

§ 53.39. Refunding Bonds

Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this chapter for other bonds, and may be exchanged by the comptroller of public accounts or sold and the proceeds applied in accordance with the procedure prescribed by Chapter 503, Acts of the 54th Legislature, 1955 (Article 717k, Vernon's Texas Civil Statutes). (V.A.C.S. Art. 1269j—101, Sec. 12.)

§ 53.40. Approval of Bonds; Registration; Negotiability

Bonds issued under this chapter and the record relating to their issuance shall be submitted to the attorney general, and if he finds that they have been issued in accordance with this chapter and constitute valid and binding obligations of the authority and are secured as recited therein he shall approve them, and they shall be registered by comptroller of public accounts who shall certify the registration thereon. Thereafter they are incontestable. The bonds shall be negotiable and shall contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation." (V.A.C.S. Art. 1269j—101, Sec. 13.)

§ 53.41. Authorized Investments

All bonds issued under this chapter are legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, and insurance companies of all kinds and types, and for the interest and sinking funds and other public funds of any issuer. The bonds are also eligible and lawful security for all deposits of public funds of the State of Texas and of any issuer, to the extent of the value of the bonds, when accompanied by an unmatured interest coupons appurtenant to them. (V.A.C.S. Art. 1269j—101, Sec. 18.)

§ 53.42. Investment of Funds; Security

To the extent it is applicable, the law as to the security for and the investment of funds, applicable to cities, controls the investment of funds belonging to authority. The bond resolution or the indenture or both may further restrict the making of investments. The authority may invest the proceeds of its bonds, until the money is needed, in the direct obligations of or obligations unconditionally guaranteed by the United States, to the extent authorized in the bond resolution or indenture or in both. (V.A.C.S. Art. 1269j—101, Sec. 19.)

§ 53.43. Depositories

The authority may select a depository or depositories according to the procedures provided by law for the selection of city depositories, or it may award its depository contract to the same depository or depositories selected by the city or cities and on the same terms. (V.A.C.S. Art. 1269j—101, Sec. 15.)

§ 53.44. **Operation of Facilities; Rates Charged; Reserve Funds**

(a) The facilities may be operated by the authority without the intervention of private profit for the use and benefit of the public, or may be leased to an institution of higher education, or may be operated by the institution under a contract with the authority, the lease or contract to be in effect until any revenue bonds issued in connection with it have been finally retired.

(b) The board shall charge rates for the use of the facilities, or for their lease or operation, that are fully sufficient to pay all expenses in connection with the ownership, operation, and upkeep of the facilities, to pay the interest on the bonds as it becomes due, to create a sinking fund to pay the bonds as they become due, and to create and maintain a bond reserve fund and other funds and reserves that may be provided in the bond resolution or trust indenture. The bond resolution or trust indenture may prescribe systems, methods, routines, and procedures under which the facilities shall be operated. (V.A.C.S. Art. 1269j—101, Sec. 14.)

§ 53.45. **Transactions with Other Agencies and Persons**

The authority may borrow money and accept grants from, and enter into contracts, leases, or other transactions with the United States, the State of Texas, any municipal corporation in the state, and any public or private person or corporation resident or authorized to do business in the state. (V.A.C.S. Art. 1269j—101, Sec. 17 (part).)

§ 53.46. **Authority Exempt From Taxation**

Because the property owned by authority will be held for educational purposes only and will be devoted exclusively to the use and benefit of the students, faculty, and staff members of an accredited institution of higher education, it is exempt from taxation of every character. (V.A.C.S. Art. 1269j—101, Sec. 16.)

CHAPTER 54. TUITION AND FEES

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 54.001. Definitions.
- 54.002. Applicability of Chapter.
- 54.003. Tuition and Charges to be Authorized by Law.
- 54.004. Retention and Use of Funds.
- 54.005. Right to Collect Special Fees.

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- 54.051. Tuition Rates.
- 54.052. Residents; Nonresidents; General Rules.
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- 54.056. Effect of Marriage.
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- 54.059. Faculty, Staff, Dependents.
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[Sections 54.062 to 54.100 reserved for expansion]

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- 54.201. Highest Ranking High School Graduates.
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[Sections 54.210 to 54.500 reserved for expansion]

SUBCHAPTER E. OTHER FEES AND DEPOSITS

- 54.501. Laboratory Fees.
 54.502. General Property Deposits.
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SUBCHAPTER A. GENERAL PROVISIONS**Section 54.001. Definitions**

In this chapter:

- (1) "Institution of higher education" has the same meaning as is assigned to it by Section 61.003 of this Code.
 (2) "Governing board" has the same meaning as is assigned to it by Section 61.003 of this code. (New.)

§ 54.002. Applicability of Chapter

The provisions of this chapter apply to all institutions of higher education, except that as to junior colleges this chapter applies only to the extent provided by Section 130.003(b) of this code. (New.)

§ 54.003. Tuition and Charges to be Authorized by Law

No institution of higher education may collect from students attending the institution any tuition, fee, or charge of any kind except as permitted by law, and no student may be refused admission to or discharged from any institution for the nonpayment of any tuition, fee, or charge except as permitted by law. (V.A.C.S. Art. 2654a, Sec. 1.)

§ 54.004. Retention and Use of Funds

All tuition, local funds, and fees collected by an institution of higher education shall be retained and expended by the institution and account-

ed for annually as provided in the general appropriations act. (V.A.C.S. Art. 2654c, Secs. 1(n), 2 (part).)

§ 54.005. Right to Collect Special Fees

The provisions of this subchapter requiring the governing board of each institution of higher education to collect tuition fees do not deprive the board of the right to collect special fees authorized by law. (V.A.C.S. Art. 2654c, Sec. 1(m) (part).)

[Sections 54.006 to 54.050 reserved for expansion]

SUBCHAPTER B. TUITION RATES

§ 54.051. Tuition Rates

(a) The governing board of each institution of higher education shall cause to be collected from students registering at the institution tuition or registration fees at the rates prescribed in this section.

(b) Tuition for resident students, except as otherwise hereinafter provided, is \$4 per semester credit hour, but the total of such charge shall be not less than \$50 per semester.

(c) Tuition for nonresident students, except as otherwise hereinafter provided, is \$40 per semester credit hour.

(d) Resident or nonresident students registered for thesis or dissertation credit only, in those instances where such credit is the final credit hour requirement for the degree in progress, shall pay a sum proportionately less than herein prescribed but not more than \$50.

(e) Tuition for resident students registered in a medical or dental branch, school or college is \$400 per academic year of 12 months.

(f) Tuition for nonresident students registered in a medical or dental branch, school or college is \$1,200 per academic year of 12 months.

(g) Resident or nonresident students registered for a course or courses in art, architecture, drama, speech, or music, where individual coaching or instruction is the usual method of instruction, shall pay a fee in addition to the regular tuition, said fee to be designated by the governing board of such institution; but in no event shall such fees be more per course per semester of four and one-half months or per summer session than \$75.

(h) Tuition for students who are citizens of any country other than the United States of America is \$14 per semester credit hour, but the total of such charge shall be not less than \$200.

(i) Tuition for students who are citizens of any country other than the United States of America registered in a medical or dental branch, school or college is \$800 per academic year of 12 months.

(j) Tuition for nonresident students registered in a public junior college is as provided in Subsection (b), Section 130.003 of the Texas Education Code.

(k) Tuition for students registered in a school of nursing as a nursing student is \$50 per semester and per 12-week summer session.

(l) Tuition for students registered in a school of nursing as a nursing student for less than 12 semester credit hours of work or for less than a full semester credit hour or term hour load during a summer session shall pay an amount proportionately less than the amount provided in Subsection (k) of this section, but not less than \$20.

(m) Twenty-five cents out of each hourly charge in Subsection (b) and \$1.50 out of each hourly charge in Subsection (c) of this section shall be placed in a scholarship fund at each institution to be administered by that institution to award scholarships to needy students. Standards for determining need shall be formulated by each institution. No

more than 10 percent of said scholarship funds may be allocated to out-of-state students.

(n) Notwithstanding the preceding provisions of this section, any nonresident student who is enrolled for the spring semester of 1971 in an institution covered by this section may continue to enroll at the same institution at the same tuition rate that was effective at the time of his original enrollment until one of the following conditions first occurs:

(1) he receives the degree at the degree level (i. e., the baccalaureate, master's, or doctoral degree) toward which he is working during the spring semester of 1971; or

(2) he voluntarily withdraws from the institution or the institution involuntarily withdraws the student for disciplinary reasons or for failing to meet the academic standards of the institution; or

(3) the termination of the spring semester of 1975.

(o) A teaching assistant, research assistant, or other student employee of any institution covered by this section is entitled to register himself, his spouse, and their children in a state institution of higher education by paying the tuition fees and other fees or charges required for Texas residents, without regard to the length of time he has resided in Texas; provided that said student employee is employed at least one-half time in a position which relates to his degree program under rules and regulations established by the employer institution. This exemption shall continue for students employed two consecutive semesters through the summer session following such employment if the institution is unable to provide employment and, as determined under standards established by the institution, if the employee has satisfactorily completed his employment.

(p) A nonresident student holding a competitive scholarship of at least \$200 for the academic year or summer for which he is enrolled is entitled to pay the fees and charges required of Texas residents without regard to the length of time he has resided in Texas, provided that he must compete with other students, including Texas residents, for the scholarship and that the scholarship must be awarded by a scholarship committee officially recognized by the administration of the institution of higher education. (V.A.C.S. Art. 2654c, Sec. 1(a), (c).)

Amended by Acts 1971, 62nd Leg., p. 3352, ch. 1024, Art. 2, § 29, eff. Sept. 1, 1971.

§ 54.052. Residents; Nonresidents; General Rules

(a) The term "residence," as used in this subchapter, means "domicile."

The term "resided in" means "domiciled in." For the purposes of this subchapter, the status of a student as a resident or nonresident student is determined as prescribed by this section, subject to the other applicable provisions of this subchapter.

(b) An individual under 21 years of age who is living away from his family and whose family resides in another state or has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student.

(c) An individual 21 years of age or under whose family has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student, regardless of whether he has become the legal ward of residents of Texas or has been adopted by residents of Texas while he is attending an educational institution in Texas, or within a 12-month period before his attendance, or under circumstances indicating that the guardianship or adoption was for the purpose of obtaining status as a resident student.

(d) An individual 21 years of age or over who has come from outside Texas and who is gainfully employed in Texas for a 12-month period im-

mediately preceding registration in an educational institution shall be classified as a resident student as long as he continues to maintain a legal residence in Texas.

(e) An individual 21 years of age or over who resides out of the state or who has come from outside Texas and who registers in an educational institution before having resided in Texas for a 12-month period shall be classified as a nonresident student. (V.A.C.S. Art. 2654c, Sec. 1(e).)

§ 54.053. Regulations of Coordinating Board

The governing board of each institution required by this chapter to charge a nonresident tuition or registration fee is subject to the rules, regulations, and interpretations issued by the Coordinating Board, Texas College and University System, for the administration of the nonresident tuition provisions of this subchapter. The rules, regulations, and interpretations promulgated by the coordinating board shall be furnished to the presidents or administrative heads of all Texas public senior and junior colleges and universities. (V.A.C.S. Art. 2654c, Sec. 1(g).)

§ 54.054. Nonresident Status: Presumption; Reclassification

A nonresident student classification is presumed to be correct as long as the residence of the individual in the state is primarily for the purpose of attending an educational institution. After residing in Texas for at least 12 months, a nonresident student may be reclassified as a resident student as provided in the rules and regulations adopted by the Coordinating Board, Texas College and University System. Any individual reclassified as a resident student is entitled to pay the tuition fee for a resident of Texas at any subsequent registration as long as he continues to maintain his legal residence in Texas. Before February 15, 1972, the Coordinating Board, Texas College and University System, shall promulgate such rules and regulations. (V.A.C.S. Art. 2654c, Sec. 1(h).)

Amended by Acts 1971, 62nd Leg., p. 3353, ch. 1024, Art. 2, § 29, eff. Sept. 1, 1971.

§ 54.055. Parents, Change of Residence to Another State

An individual 21 years of age or under whose parents were formerly residents of Texas is entitled to pay the resident tuition fee following the parents' change of legal residence to another state, as long as the individual remains continuously enrolled in a regular session in a state-supported institution of higher education. (V.A.C.S. Art. 2654c, Sec. 1(f).)

Amended by Acts 1971, 62nd Leg., p. 3354, ch. 1024, Art. 2, § 29, eff. Sept. 1, 1971.

§ 54.056. Effect of Marriage

A nonresident who marries and remains married to a resident of Texas, classified as such under this chapter at the time of the marriage and at the time the nonresident registers, is entitled to pay the resident tuition fee regardless of the length of time he has lived in Texas; and any student who is a resident of Texas and who marries a nonresident is entitled to pay the resident tuition fee as long as he does not adopt the legal residence of the spouse in another state. (V.A.C.S. Art. 2654c, Sec. 1(i).)

§ 54.057. Aliens

An alien who is living in this country under a visa permitting permanent residence or who has filed with the proper federal immigration authorities a declaration of intention to become a citizen has the same privilege of qualifying for resident status for fee purposes under this Act as has a citizen of the United States. A resident alien residing in a junior college district located immediately adjacent to Texas boundary lines

shall be charged the resident tuition by that junior college. (V.A.C.S. Art. 2654c, Sec. 1(j).)

Amended by Acts 1971, 62nd Leg., p. 3354, ch. 1024, Art. 2, § 29, eff. Sept. 1, 1971.

§ 54.058. Military Personnel and Dependents

(a) Military personnel are classified as provided by this section.

(b) An officer, enlisted man or woman, selectee, or draftee of the Army, Army Reserve, Army National Guard, Air National Guard, Texas State Guard, Air Force, Air Force Reserve, Navy, Navy Reserve, Marine Corps, Marine Corps Reserve, Coast Guard, or Coast Guard Reserve of the United States, who is assigned to duty in Texas is entitled to register himself, his spouse, and their children in a state institution of higher education by paying the tuition fee and other fees or charges required of Texas residents, without regard to the length of time he has been assigned to duty or resided in the state. However, out-of-state Army National Guard or Air National Guard members attending training with Texas Army or Air National Guard units under National Guard Bureau regulations may not be exempted from nonresident tuition by virtue of that training status nor may out-of-state Army, Air Force, Navy, Marine Corps, or Coast Guard Reserves training with units in Texas under similar regulations be exempted from nonresident tuition by virtue of that training status. It is the intent of the legislature that only those members of the Army or Air National Guard, Texas State Guard, or other reserve forces mentioned above be exempted from the nonresident tuition fee and other fees and charges only when they become members of Texas units of the military organizations mentioned above.

(c) As long as they reside continuously in Texas, the spouse and children of a member of the Armed Forces of the United States who has been assigned to duty elsewhere immediately following assignment to duty in Texas are entitled to pay the tuition fees and other fees or charges provided for Texas residents.

(d) If nonresident military personnel are attending an institution of higher education under a contract between the institution and any branch of the Armed Forces of the United States, in which the tuition of the member of the military is paid in full by the United States government, the student shall pay the nonresident tuition fee.

(e) A Texas institution of higher education may charge to the United States government the nonresident tuition fee for a veteran enrolled under the provisions of a federal law or regulation authorizing educational or training benefits for veterans.

(f) The spouse and children of a member of the Armed Forces of the United States who dies or is killed are entitled to pay the resident tuition fee if the wife and children become residents of Texas within 60 days of the date of death.

(g) If a member of the Armed Forces of the United States is stationed outside Texas and his spouse and children establish residence in Texas by residing in Texas and by filing with the Texas institution of higher education at which they plan to register a letter of intent to establish residence in Texas, the institution of higher education shall permit the spouse and children to pay the tuition, fees, and other charges provided for Texas residents without regard to length of time that they have resided in the state. (V.A.C.S. Art. 2654c, Sec. 1(k).)

§ 54.059. Faculty, Staff, Dependents

A teacher, professor, or other employee of an institution of higher education is entitled to register himself, his spouse, and their children in an institution of higher education by paying the tuition fee and other fees or charges required for Texas residents without regard to the length of time

he has resided in Texas. A teacher, professor, or other employee of an institution of higher education is any person employed at least one-half time on a regular monthly salary basis by an institution of higher education. (V.A.C.S. Art. 2654c, Sec. 1 (L).)

§ 54.060. Resident of Bordering State: Tuition at Junior College

The nonresident tuition fee prescribed in this chapter does not apply to a nonresident student who is a resident of a state situated adjacent to Texas and who registers in any Texas public junior college situated immediately adjacent to the state in which the nonresident student resides. The nonresident student described in this section shall pay an amount equivalent to the amount charged a Texas student registered at a similar school in the state in which the nonresident student resides. (V.A.C.S. Art. 2654c, Sec. 1(d).)

§ 54.061. Penalty for Noncompliance with Rules

The governing board of an institution of higher education may assess and collect from each nonresident student who fails to comply with the rules and regulations of the board concerning nonresident fees a penalty not to exceed \$10 a semester. (V.A.C.S. Art. 2654c, Sec. 1(o).)

[Sections 54.062 to 54.100 reserved for expansion]

SUBCHAPTER C. TUITION SCHOLARSHIPS

§ 54.101. Tuition Scholarships

(a) The governing boards of the several state-supported institutions are hereby authorized and directed to have reserved and set apart in a separate account on the books of the respective institutions out of the fees levied and collected from students under Section 54.051 of this code an amount to be determined by the legislature for each institution in the biennial appropriation act, for the purpose of creating a special fund to be used in awarding tuition scholarships to needy resident students enrolled in such respective institutions, and a separate account on the books of the respective institutions out of the fees levied and collected from students under Section 54.051 of this code, an amount to be determined by the legislature for each institution in the biennial appropriation act, for the purpose of creating a special fund to be used in awarding tuition scholarships to needy alien students enrolled in such respective institutions.

(b) Such tuition scholarships shall be awarded to students with the approval of the president or other administrative head of each such respective institution in accordance with such rules and regulations governing the award of such tuition scholarships as may be promulgated by the governing boards of said respective institutions. Rules and regulations shall be subject to the provisions of this section.

(c) Eligibility shall be based primarily on financial need. In determining need, consideration should be given to the student's own efforts to finance his education as evidenced by part-time jobs, loans from private sources, or financial capacity of the parents.

(d) Awards shall be based on character and satisfactory scholastic record.

(e) Recipients of such tuition scholarships must be classified as either "resident students" under the provisions of Subchapter B of this chapter or "alien students." For the purpose of this subsection, an "alien student" is any student who is not a citizen of the United States and who is not entitled to resident status for purposes of payment of tuition under Section 54.057 of this code.

(f) Tuition scholarships shall be awarded in an amount of \$25 per semester or \$50 per long session for each resident student and \$100 per semester or \$200 per long session for each alien student. The amount of such awards shall be credited to the student recipient as partial payment of his tuition fees. Students otherwise entitled to a refund shall receive the refund based only on that portion of the tuition actually paid by the student.

(g) Tuition scholarships shall be awarded in an amount not to exceed \$125 per semester or \$250 per long session for each full-time resident medical or dental student. The amount of such awards shall be credited to the student as partial payment of his tuition fees. Students otherwise entitled to a refund of tuition shall receive the refund based only on that portion of the tuition actually paid by the student.

(h) Not later than 30 days after the close of each fiscal year, each institution shall transfer any unused balances in the fund set up for scholarship awards to the tuition income account from which the scholarship fund was established. (Sec. 1—4, H.B.No.43, 62nd Legis., Reg.Sess., 1971.) (V.A.C.S. Art. 2654c, Sec. 1(b).)

Amended by Acts 1971, 62nd Leg., p. 3354, ch. 1024, Art. 2, § 29, eff. Sept. 1, 1971.

§ 54.102. Nursing Students

The governing boards of Texas Woman's University, The University of Texas System, Prairie View Agricultural and Mechanical College, and West Texas State University may grant nursing tuition scholarships to students enrolled in a baccalaureate nursing program. Each scholarship shall be granted only after a review of the economic circumstances and need of the individual student and may be in an amount deemed necessary to cover any part, or all, of the tuition of the student. Each governing board may prescribe rules, regulations, and the conditions of general effect applicable to the awarding of nursing tuition scholarships. (S. B.No.908, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3361, ch. 1024, Art. 2, § 41, eff. Sept. 1, 1971.

[Sections 54.103 to 54.200 reserved for expansion]

SUBCHAPTER D. EXEMPTIONS FROM TUITION

§ 54.201. Highest Ranking High School Graduates

The governing board of each institution of higher education may issue scholarships each year to the highest ranking graduate of each accredited high school of this state, exempting the graduates from the payment of tuition during both semesters of the first regular session immediately following their graduation. This exemption may be granted for any one of the first four regular sessions following the individual's graduation from high school when in the opinion of the institution's president the circumstances of an individual case, including military service, merit the action. (V.A.C.S. Art. 2654b—1, Sec. 2.)

§ 54.202. High School Graduates of State Homes

The governing board of each institution of higher education shall exempt each citizen of Texas who at the time of his admission is a high school graduate of a state home from the payment of all dues, fees, and charges, including fees for correspondence courses. The exemption does not apply either to general property deposits, which may be required as security for the return of or proper care of property loaned for the use of a student, or to charges for lodging, board, or clothing. The governing

board shall require every applicant who claims this exemption to submit satisfactory evidence that he is a citizen of Texas and is otherwise entitled to the exemption. (V.A.C.S. Art. 2654f.)

§ 54.203. Veterans, Dependents, Etc.

(a) The governing board of each institution of higher education shall exempt the following persons from the payment of all dues, fees, and charges, including fees for correspondence courses but excluding property deposit fees, student services fees, and any fees or charges for lodging, board, or clothing, provided the persons seeking the exemptions were citizens of Texas at the time they entered the services indicated and have resided in Texas for at least the period of 12 months before the date of registration:

(1) all nurses and honorably discharged members of the armed forces of the United States who served during the Spanish-American War or during World War I;

(2) all nurses, members of the Women's Army Auxiliary Corps, members of the Women's Auxiliary Volunteer Emergency Service, and all honorably discharged members of the armed forces of the United States who served during World War II except those who were discharged from service because they were over the age of 38 or because of a personal request on the part of the person that he be discharged from service;

(3) all honorably discharged men and women of the armed forces of the United States who served during the national emergency which began on June 27, 1950, and which is referred to as the Korean War; and

(4) all persons who were honorably discharged from the armed forces of the United States after serving on active military duty, excluding training, for more than 180 days during the Cold War which began on the date of the termination of the national emergency cited in Subdivision (3) of this subsection. (V.A.C.S. Art. 2654b; Art. 2654b—1, Sec. 1 (part), 3 (part), 5 (part), 6(a) (part).)

(b) The exemptions provided for in Subsection (a) of this section also apply and inure to the benefit of the children of members of the armed forces of the United States who were killed in action or died while in service during World War II, the national emergency which began on June 27, 1950, or the Cold War, and to the benefit of orphans of members of the Texas National Guard and the Texas Air National Guard killed since January 1, 1946, while on active duty either in the service of their state or the United States. However, to qualify for this exemption a person must be a citizen of Texas and must have resided in the state for at least 12 months immediately preceding the date of his registration. (V.A.C.S. Art. 2654b—1, Sec. 3 (part), 5 (part), and 6(a) (part).)

(c) The governing board of each institution of higher education granting exemptions shall require every applicant claiming the benefit of an exemption to submit satisfactory evidence that he fulfills the necessary citizenship and residency requirements. (V.A.C.S. Art. 2654b—1, Sec. 1 (part).)

(d) The exemption from fees provided for in Subsection (a) of this section does not apply to a person if at the time of his registration he is eligible for educational benefits under federal legislation in effect at the time of his registration. A person is covered by the exemptions if his right to benefits under federal legislation is extinguished at the time of his registration. (V.A.C.S. Art. 2654b—1, Sec. 4 (part), 5 (part), and 6(b).)

(e) The governing board of each institution of higher education may enter into contracts with the United States government, or any of its agencies, to furnish instruction to ex-servicemen and ex-service women at

a tuition rate which covers the estimated cost of the instruction or, in the alternative, at a tuition rate of \$100 a semester, as may be determined by the governing board. If the rates specified are prohibited by federal law for any particular class of ex-servicemen or ex-service women, the tuition rate shall be set by the governing board, but shall not be less than the established rate for civilian students. If federal law provides as to any class of veterans that the tuition payments are to be deducted from subsequent benefits to which the veteran may be entitled, the institution shall refund to any veteran who is a resident of Texas within the meaning of this section the amount by which any adjusted compensation payment is actually reduced because of tuition payments made to the institution by the federal government for the veteran. (V.A.C.S. Art. 2654b—1, Sec. 4 (part).)

§ 54.204. Children of Disabled Firemen and Peace Officers

(a) In this section:

(1) "Eligible employee" means a full-paid or volunteer fireman, or a full-paid municipal, county, or state peace officer, or a custodial employee of the Texas Department of Corrections, or a game warden, who has a child under 21 years of age.

(2) "Disability" means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be under a disability unless he furnishes such proof of its existence as may be required.

(b) The governing board of each institution of higher education shall exempt from the payment of all tuition and laboratory fees any person whose parent is an eligible employee who has suffered an injury, resulting in death or disability, sustained in the line of duty according to the regulations and criteria then in effect governing the department or agency in which he was employed. The exemption does not apply to general property deposits or to fees or charges for lodging, board, or clothing.

(c) A person is not entitled to the exemption if he:

(1) does not apply initially for the exemption before he becomes 21 years of age;

(2) does not meet all entrance requirements of the institution; or

(3) does not maintain a scholastic average sufficient to remain in good standing.

(d) A person loses his right to an exemption after eight consecutive semesters, not including summer semesters, beginning with the first semester for which he registers.

(e) A person entitled to an exemption under the provisions of this section may use the exemption:

(1) only at the public senior college or university which he first attends under the provisions of this section; or

(2) only at the public junior college which he first attends, and upon successful completion of four consecutive semesters at the public junior college he may continue to use the exemption for four consecutive semesters only at the public senior college or university which he subsequently first attends.

(f) A person entitled to an exemption under the provisions of this section shall, when transferring from a public junior college to a public senior college or university, meet the standard entrance requirements required by the senior college or university of an applicant for admission not covered by the provisions of this section.

(g) An eligible employee whose injury results in a disability shall submit to a physical examination by a physician designated by the United

States Social Security Administration to conduct physical examinations and to make disability reports to the Social Security Administration. If the physician decides the injury received has resulted in a disability, he shall certify this fact to the head of the department which employs the employee.

(h) The head of the department which employed the eligible employee at the time he sustained the injury shall file a certificate with the Coordinating Board, Texas College and University System, on a form prepared by the board for the purpose. The head of the department shall attach the certificate of the examining physician if an examination is required by Subsection (g) of this section. A copy of the certificate on file with the coordinating board is sufficient evidence for the institution to grant the exemption. (V.A.C.S. Art. 2654f—1.)

§ 54.205. Blind, Deaf Students

(a) In this section:

(1) "Resident" has the same meaning as is assigned it in Subchapter B of this chapter.

(2) "Blind person" means a person who is a "blind disabled individual" as defined in Section 5, Chapter 291, Acts of the 59th Texas Legislature, Regular Session, 1965 (Article 3207c, Vernon's Texas Civil Statutes), and who is eligible for the rehabilitation services of the State Commission for the Blind.

(3) "Deaf person" means a person whose sense of hearing is non-functional, after all necessary medical treatment, surgery, and use of hearing aids, for understanding normal conversation and who is eligible for the services of the Division of Vocational Rehabilitation of the Texas Education Agency.

(4) "Tuition fees" includes all dues, fees, and charges, including fees for correspondence courses, except general property deposit fees, student services fees, and fees or charges for lodging, board, or clothing.

(b) A deaf or blind person who is a resident is entitled to exemption from the payment of tuition fees at any institution of higher education utilizing public funds if he presents:

(1) certification by the appropriate state vocational rehabilitation agency that he is deaf or blind and is a client of the agency;

(2) a high school diploma or its equivalent;

(3) proof of good moral character, which may be evidenced by a letter of recommendation from the principal of the high school attended by the deaf or blind individual or, if the high school no longer exists or if the principal cannot be located, a letter of recommendation from the individual's clergyman, a public official, or some other responsible person who knows the deaf or blind individual and is willing to attest to his good moral character; and

(4) proof that he meets all other entrance requirements of the institution.

(c) The governing board of an institution may establish special entrance requirements to fit the circumstances of deaf and blind persons. In order to obtain the maximum vocational benefits of their college training, all deaf students applying for a tuition exemption under this legislation shall cooperate with the Commission for Rehabilitation, and all blind students applying for a tuition exemption under this section shall cooperate with the State Commission for the Blind. The Commission for Rehabilitation and the State Commission for the Blind shall utilize all available and appropriate resources at the institutions of higher education to insure that deaf or blind students receive the maximum benefits from college training for which tuition fee exemptions are claimed under this Act. The Commission for Rehabilitation, the State Commission for the

Blind, and the Coordinating Board, Texas College and University System, may develop any rules and procedures that these agencies determine necessary for the efficient implementation of this section. (V.A.C.S. Art. 2654f—2.)

§ 54.206. Low-Income Families

- (a) This section may be cited as the Connally-Carillo Act.
- (b) In this section, "family income" means the combined gross income of the applicant and his parents, if he is single, or the combined gross income of the applicant, his parents, and his spouse, if he is married.
- (c) The governing board of each institution of higher education shall exempt from the payment of tuition fees and charges each person:
 - (1) who is a citizen of Texas under 25 years of age on the date of registration and who has resided in the state for a period of not less than 12 months before the date of registration;
 - (2) who was graduated in the top 25 percent of his graduating class of an accredited high school in 1967 or later or was graduated from an accredited high school in 1967 or later and scored in the top 20 percent on a nationally standardized college admission examination; and
 - (3) whose family income was not more than \$4,800, as determined by the gross income on the last applicable federal income tax return (or returns) or financial statement which shall be sworn to by the applicant's parents or guardian at the time of registration.
- (d) The exemption is limited to the payment of tuition, fees, and charges, including fees for correspondence courses, and does not apply to property deposits or fees or charges for lodging, board, or clothing. The exemption is limited to a maximum of six years for each qualified citizen.
- (e) The exemption is not applicable in the case of any person whose tuition, fees, and charges are being or will be paid to the educational institution by the United States government, or one of its agencies, or in the case of any person whose tuition, fees, and charges are paid from funds, either public or private, other than his own or those of his family or his guardian.
- (f) The governing board of the institution shall require every applicant claiming an exemption to submit satisfactory evidence that he is entitled to the exemption. (V.A.C.S. Art. 2654f—3.)

§ 54.207. Students from Other Nations of the American Hemisphere

- (a) The governing boards of the institutions of higher education may annually exempt from the payment of tuition fees the following students:
 - (1) 200 native-born students from the other nations of the American hemisphere; and
 - (2) 35 native-born students from a Latin American country designated by the United States Department of State.
- (b) Ten students from each nation, as authorized in Subsection (a) (1) of this section, shall be exempt as provided in this subsection. In the event any nation fails to have 10 students available and qualified for exemption, additional students from the other nations may be exempted, subject to the approval of the State Board of Education and allocation by it. However, not more than 235 students from all the nations shall be exempt each year. In the event the nation designated in Subsection (a) (2) of this section fails to have 35 students available and qualified for exemption within a reasonable time, additional students from other nations may be exempt, subject to the approval of the State Board of Education.
- (c) Every applicant desiring the exemption shall furnish satisfactory evidence, certified by the proper authority of his native country, that he

is a bona fide native-born citizen and resident of the country which certifies his application and that he is scholastically qualified for admission.

(d) The State Board of Education, after consultation with representatives of the governing boards of the institutions of higher education, shall formulate and prescribe a plan governing the admission and distribution of all applicants desiring to qualify under the provisions of this section.

(e) No student shall be exempted under this section who is not a native-born citizen of the country certifying his qualifications and who has not lived in one of the nations of this hemisphere for a period of at least five years. No member of the Communist Party and no student from Cuba shall be eligible for benefits under this section. (V.A.C.S. Art. 2654e.)

§ 54.208. Firemen Enrolled in Fire Science Courses

The governing boards of the state institutions of collegiate rank supported in whole or in part by public funds shall exempt from the payment of tuition and laboratory fees any person who is employed as a fireman by any political subdivision of the state and who enrolls in a course or courses offered as part of a fire science curriculum. The exemption provided does not apply to deposits which may be required in the nature of security for the return or proper care of property loaned for the use of students. (H.B.No.398, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3345, ch. 1024, Art. 2, § 16, eff. Sept. 1, 1971.

§ 54.209. Children of Prisoners of War or Persons Missing in Action

(a) In this section:

(1) "Dependent child" means a person under 21 years of age, or a person under 25 years of age who receives the majority of his support from his parent or parents.

(2) "Tuition and fees" includes tuition, service fees, lab fees, building use fees, and all other fees except room, board, or clothing fees, or deposits in the nature of security for the return or proper care of property.

(b) The governing body of each institution of higher education, on presentation of satisfactory evidence, shall exempt from the payment of tuition and fees the dependent child of any person who is a domiciliary of Texas on active duty as a member of the armed forces of the United States, and who at the time of the registration is classified by the Department of Defense as a prisoner of war or as missing in action. (H. B.No.548, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3356, ch. 1024, Art. 2, § 33, eff. Sept. 1, 1971.

[Sections 54.210 to 54.500 reserved for expansion]

SUBCHAPTER E. OTHER FEES AND DEPOSITS

§ 54.501. Laboratory Fees

An institution of higher education may make and collect a laboratory charge in an amount sufficient to cover in general the cost of laboratory materials and supplies used by a student. The laboratory charge shall be not less than \$2 nor more than \$8 for any one semester or summer term for any student in any one laboratory course, but shall not exceed the

cost of actual materials and supplies used by the student. (V.A.C.S. Art. 2654a, Sec. 2 (part); Art. 2654c, Sec. 1(m) (part), 2 (part).)

§ 54.502. General Property Deposits

An institution of higher education may collect a reasonable deposit not to exceed \$10 from each student to insure the institution against losses, damages, and breakage in libraries and laboratories. The deposit shall be returned on the withdrawal or graduation of a student, less any loss, damage, or breakage caused by the student. The medical and dental units of The University of Texas System shall collect a breakage or loss deposit no greater than \$30. (V.A.C.S. Art. 2654a, Sec. 2 (part).)

§ 54.503. Student Services Fees

(a) For the purposes of this section, "student services" means textbook rentals, recreational activities, health and hospital services, automobile parking privileges, intramural and intercollegiate athletics, artists and lecture series, cultural entertainment series, debating and oratorical activities, student publications, student government, and any other student activities and services specifically authorized and approved by the appropriate governing board.

(b) The governing board of an institution of higher education may charge and collect from students registered at the institution fees to cover the cost of student services which the board deems necessary or desirable in carrying out the educational functions of the institution. The fee or fees may be either voluntary or compulsory as determined by the governing board. The total of all compulsory student service fees collected from a student for any one semester or summer session shall not exceed \$30. No fee for parking services or facilities may be levied on a student unless the student desires to use the parking facilities provided.

(c) The governing board may fix and collect a reasonable fee or fees for the enforcement and administration of parking or traffic regulations approved by the board for the institution.

(d) The provisions of this section do not affect the building use fees or other special fees authorized by the legislature for any institution for the purpose of financing revenue bond issues.

(e) All money collected as student services fees shall be reserved and accounted for in an account or accounts kept separate and apart from educational and general funds of the institution and shall be used only for the support of student services. All the money shall be placed in a depository bank or banks designated by the governing board and shall be secured as required by law. Each year the governing board shall approve for the institution a separate budget for student activities and services financed by fees authorized in this section. The budget shall show the fees to be assessed, the purpose or functions to be financed, the estimated income to be derived, and the proposed expenditures to be made. Copies of the budgets shall be filed annually with the coordinating board, the governor, the legislative budget board, the state auditor, and the state library.

(f) The governing board may waive all or part of any compulsory fee or fees authorized by this section in the case of any student for whom the payment of the fee would cause an undue financial hardship, provided the number of the students does not exceed 10 percent of the total enrollment. The board may limit accordingly the participation of a student in the activities financed by the fee so waived. (V.A.C.S. Art. 2654a, Sec. 4.)

CHAPTER 55. FINANCING PERMANENT IMPROVEMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Section

55.01. Definitions.

[Sections 55.02 to 55.10 reserved for expansion]

SUBCHAPTER B. REVENUE BONDS AND FACILITIES

- 55.11. General Authority.
- 55.12. Contracts for Joint Construction.
- 55.13. Authority to Issue Revenue Bonds.
- 55.14. Terms and Conditions.
- 55.15. Disposition of Bond Proceeds.
- 55.16. Rentals, Rates, Charges, and Fees.
- 55.17. Pledges; Parietal Rules; Types of Fees; Additional Pledge of Resources; Acquisition, etc. of Property; Revenue Bonds.
- 55.18. Bonds not Obligations of the State.
- 55.19. Refunding Bonds.
- 55.20. Approval and Registration of Bonds.
- 55.21. Bonds are Authorized Investments and Security for Deposits.
- 55.22. Validation of Bonds and Proceedings.
- 55.23. Cumulative Effect of Subchapter.
- 55.24. Pledges under Previous Laws to Remain in Effect.

[Sections 55.25 to 55.40 reserved for expansion]

SUBCHAPTER C. REFUNDING CONSTITUTIONAL BONDS AND NOTES

- 55.41. Refunding Bonds.

SUBCHAPTER A. GENERAL PROVISIONS

Section 55.01 Definitions

In this chapter:

- (1) "Institution of higher education" or "institution" has the meaning assigned to it by Section 61.003(7) of this code, except that "public junior college" is excluded.
- (2) "Governing board" or "board" means the board having management and control of an institution of higher education. (New.)

[Sections 55.02 to 55.10 reserved for expansion]

SUBCHAPTER B. REVENUE BONDS AND FACILITIES

§ 55.11. General Authority

Each board is authorized to acquire, purchase, construct, improve, enlarge, equip, operate, and/or maintain any property, buildings, structures, activities, services, operations, or other facilities, for and on behalf of its institution or institutions, or any branch or branches thereof.

§ 55.12. Contracts for Joint Construction

Each board may enter into contracts with municipalities or school districts for the joint construction of museums, libraries, or other buildings.

§ 55.13. Authority to Issue Revenue Bonds

For the purpose of providing funds to acquire, purchase, construct, improve, enlarge, and/or equip any property, buildings, structures, activities, services, operations, or other facilities, for and on behalf of its institution or institutions, or any branch or branches thereof, each board may issue its revenue bonds from time to time and in one or more issue or series, to be payable from and secured by liens on and pledges of all or any part of any of the revenues, income, or receipts of the board and its institution or institutions, or any branch or branches thereof, including, without limitation, any rentals, rates, charges, fees, or other resources, in the manner provided by this subchapter.

§ 55.14. Terms and Conditions

(a) The bonds may be issued to mature serially or otherwise within not to exceed 50 years from their date, and each board may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms or conditions that may be set forth in the resolution authorizing the issuance of the bonds.

(b) The bonds, and any interest coupons appertaining thereto, are and shall constitute negotiable instruments within the meaning and for all purposes of the Texas Uniform Commercial Code (provided that the bonds may be issued registrable as to principal alone or as to both principal and interest), and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rates, all as shall be determined and provided by the board in the resolution authorizing the issuance of the bonds.

§ 55.15. Disposition of Bond Proceeds

Proceeds from the sale of the bonds may be used for paying interest on the bonds during the period of the acquisition or construction of any facilities to be provided through the issuance of the bonds, and for providing a reserve for the payment of the principal of and interest on the bonds, and such proceeds may be placed on time deposit or invested, until needed, to the extent, and in the manner provided, in the bond resolution.

§ 55.16. Rentals, Rates, Charges, and Fees

Each board shall be authorized to fix and collect rentals, rates, charges, and/or fees from students and others for the occupancy, services, use, and/or availability of all or any of its property, buildings, structures, activities, operations, or other facilities, in such amounts and in such manner as may be determined by the board.

§ 55.17. Pledges; Parietal Rules; Types of Fees; Additional Pledge of Resources; Acquisition, etc. of Property; Revenue Bonds

(a) Each board may pledge all or any part of its revenues, income, or receipts from such rentals, rates, charges, and/or fees, or other resources to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged rentals, rates, charges, and/or fees shall be fixed and collected in amounts that will be at least sufficient, together with

any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds and, to the extent required by the resolution authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds and for the payment of operation, maintenance, and other expenses in connection with the aforesaid property, buildings, structures, activities, services, operations, or other facilities.

(b) Each board may establish and enforce parietal rules for students and others, and enter into agreements regarding occupancy, use, and availability of facilities, and the amounts and collection of pledged revenues, income, receipts, rentals, rates, charges, fees, or other resources, that will assure making all the required payments and deposits.

(c) Fees for the use by or availability to the students of all or any property, buildings, structures, activities, services, operations, or other facilities, may be pledged to the payment of the bonds, and shall be fixed and collected from all or any designated part of the students enrolled in the institution or institutions, or any branch or branches thereof, in the amounts and in the manner as determined and provided by the board in the resolution authorizing the issuance of the bonds; and said fees may be collected in the full amounts required or permitted herein, without regard to actual use, availability, or existence of any facility, commencing at any time designated by the board. Said fees may be fixed and collected for the use or availability of any specifically described property, buildings, structures, activities, services, operations, or other facilities; or said fees may be fixed and collected as general fees for the general use or availability of the institution or institutions, or any branch or branches thereof. Such specific and/or general fees may be fixed and collected, and pledged to the payment of any issue or series of bonds issued by the board, in the full amounts required or permitted herein, in addition to, and regardless of the existence of, any other specific or general fees at the institution or institutions, or any branch or branches thereof; provided that each board may restrict its power to pledge such additional specific or general fees in any manner that may be provided in any resolution authorizing the issuance of bonds, and provided that no such additional specific fees shall be pledged if prohibited by any resolution which authorized the issuance of any then outstanding bonds.

(d) Additionally, each board may pledge irrevocably to the payment of the bonds, out of the tuition charges required or permitted by law to be imposed at its institution or institutions, or any branch or branches thereof, an amount not exceeding \$5 from each enrolled student for each regular semester and \$2.50 from each enrolled student for each summer term. Each board also may pledge to the payment of the bonds all or any part of any grant, donation, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise. A board also may pledge to the payment of the bonds all or any part of any revenues, income, receipts, or other resources of said board, including, without limitation, student charges, to the extent that such revenues, income, receipts, or other resources are permitted to be pledged to the payment of revenue bonds authorized to be issued by the board by any other law. Further, in issuing bonds pursuant to this subchapter, each board additionally may pledge to the payment of outstanding bonds, issued pursuant to any other law, all or any part of the revenues, income, receipts, or resources of the board authorized to be pledged to the payment of bonds issued pursuant to this subchapter.

(e) (1) The board of regents of Texas Tech University, acting separately and independently for and on behalf of Texas Tech University and separately and independently for and on behalf of the Texas Tech University School of Medicine at Lubbock, is hereby granted full and final authority and responsibility to acquire, purchase, construct, improve, en-

large, and/or equip property, buildings, structures, and/or facilities for the Texas Tech University School of Medicine at Lubbock.

(2) The board of regents of Texas Tech University, acting separately and independently for and on behalf of Texas Tech University and separately and independently for and on behalf of the Texas Tech University School of Medicine at Lubbock, may pledge irrevocably to the payment of its revenue bonds all or any part of the aggregate amount of student tuition charges required or authorized by law to be imposed on students enrolled at Texas Tech University and/or at the Texas Tech University School of Medicine at Lubbock; and the amount of any pledge so made shall never be reduced or abrogated while such bonds are outstanding; provided, however, that such tuition charges shall not be pledged pursuant to the authority granted by this Subsection (e) (2) except to the payment of bonds issued in an aggregate principal amount of not to exceed \$35 million for the purpose of providing funds to acquire, purchase, construct, improve, enlarge, and/or equip property, buildings, structures, and facilities for the Texas Tech University School of Medicine at Lubbock.

(f) (1) The board of regents of The University of Texas System is hereby granted full and final authority and responsibility to acquire, purchase, construct, improve, enlarge, and/or equip property, buildings, structures, and/or facilities for The University of Texas at Dallas, The University of Texas of the Permian Basin, The University of Texas at San Antonio, The University of Texas Medical School at Houston, The University of Texas Dental School at San Antonio, The University of Texas (Undergraduate) Nursing School at El Paso, and The University of Texas (Clinical) Nursing School at San Antonio.

(2) The board of regents of The University of Texas System may pledge irrevocably to the payment of its revenue bonds all or any part of the aggregate amount of student tuition charges required or authorized by law to be imposed on students enrolled at each and every institution, branch, and school operated by or under the jurisdiction of said board of regents of The University of Texas System; and the amount of any pledge so made shall never be reduced or abrogated while such bonds are outstanding; provided, however, that such tuition charges shall not be pledged pursuant to the authority granted by this Subsection (f) (2) except to the payment of bonds issued in an aggregate principal amount of not to exceed \$150 million for the purpose of providing funds to acquire, purchase, construct, improve, enlarge, and/or equip property, buildings, structures, and facilities for The University of Texas at Dallas, The University of Texas of the Permian Basin, The University of Texas at San Antonio, The University of Texas Medical School at Houston, The University of Texas Dental School at San Antonio, The University of Texas (Undergraduate) Nursing School at El Paso and The University of Texas (Clinical) Nursing School at San Antonio.

(g) Subsections (a) through (f) of this section are cumulative of all other laws on the subject, but they shall be wholly sufficient authority for the issuance of the bonds and the performance of the acts and procedures, and the exercise of the powers granted and authorized thereby, regardless of any restrictions or limitations contained in any other laws; and when any bonds are being issued or any acts or procedures are being undertaken, or any powers being exercised pursuant to those subsections, then to the extent of any conflict or inconsistency between any provisions of those subsections, and any provision of any other law, the provisions of those subsections shall prevail and control ([Secs. 3-5], H.B.No.278, 62nd Legis., Reg.Sess., 1971.)

Subsecs. (e)–(g) added by Acts 1971, 62nd Leg., p. 3335, ch. 1024, Art. 2, § 1, eff. Sept. 1, 1971.

Acts 1971, 62nd Leg., p. 3362, ch. 1024, art. 2, which by §§ 1 to 44 amended this section and various other sections of the Education Code, provided in §§ 45 to 48:

“Sec. 45. Each section of this article takes effect only if and when the legislation on which it is based takes effect, but not earlier than September 1, 1971.

“Sec. 46. All provisions of the Code Construction Act (Article 5429b–2, Vernon's Texas Civil Statutes) apply to this article.

“Sec. 47. This article is intended as a codification only, and nothing in this article is intended to effect any substantive change in the law.

“Sec. 48. As each section of this article takes effect, the Act on which it is based is repealed.”

§ 55.18. Bonds not Obligations of the State

Bonds issued by a board are payable solely from the revenues, income, receipts, or other resources of the board, as provided in this subchapter, and such bonds shall never be an obligation of the State of Texas.

§ 55.19. Refunding Bonds

Any bonds or notes at any time issued by a board may be refunded or otherwise refinanced by the issuance by the board of refunding bonds for such purpose, under such terms, conditions, and details as may be determined by resolution of the board. All pertinent and appropriate provisions of this subchapter shall be applicable to such refunding bonds, and they shall be issued in the manner provided herein for other bonds authorized under this subchapter; provided that such refunding bonds may be sold and delivered in amounts necessary to pay the principal, interest, and redemption premium, if any, of bonds or notes to be funded or refunded, at maturity or on any redemption date. Also, such refunding bonds may be issued to be exchanged for the bonds or notes being refunded thereby. In the latter case, the Comptroller of Public Accounts of the State of Texas shall register the refunding bonds and deliver the same to the holder or holders of the bonds or notes being refunded thereby, in accordance with the provisions of the resolution authorizing the refunding bonds; and any such exchange may be made in one delivery, or in several installment deliveries. Bonds issued at any time by a board also may be refunded in the manner provided by any other applicable law.

§ 55.20. Approval and Registration of Bonds

All bonds issued by any board, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the comptroller; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

§ 55.21. Bonds are Authorized Investments and Security for Deposits

All bonds issued by any board are legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas, and for all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and for all other kinds and types of districts, public agencies, and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all coun-

ties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

§ 55.22. Validation of Bonds and Proceedings

All revenue bonds heretofore approved by the attorney general and registered by the comptroller, which were issued, sold, and delivered by any board, and which are payable from or secured by a pledge of any revenues, income, receipts, or other resources of such board, are hereby validated in all respects, together with all proceedings authorizing the issuance thereof, and said bonds and proceedings are and shall be valid and binding obligations in accordance with their terms and conditions for all purposes, as though they had been duly and legally issued and authorized originally.

§ 55.23. Cumulative Effect of Subchapter

This subchapter shall be cumulative of all other law on the subject, but this subchapter shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other law or any restrictions or limitations contained therein, except as herein specifically provided; and when any bonds are being issued under this subchapter, then to the extent of any conflict or inconsistency between any provisions of this subchapter and any provision of any other law, the provisions of this subchapter shall prevail and control; provided, however, that any board shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this subchapter.

§ 55.24. Pledges Under Previous Laws to Remain in Effect

Where any revenues, income, receipts, or other resources of any board have been pledged to the payment of principal of and interest on any bonds or notes issued and delivered pursuant to any other law, the repeal of such law by virtue of the enactment of Title 3 of this code shall not affect any such pledge or any covenants with respect to such bonds or notes, or any bonds issued to refund same, and all such pledges and covenants shall remain in full force and effect in accordance with the terms and provisions thereof.

[Sections 55.25 to 55.40 reserved for expansion]

**SUBCHAPTER C. REFUNDING CONSTITUTIONAL
BONDS AND NOTES**

§ 55.41. Refunding Bonds

The governing board of any institution which has heretofore issued or which hereafter issues bonds or notes pursuant to the authority of Article VII, Section 17, of the Texas Constitution, as amended, may issue refunding bonds to refinance or refund any or all of the bonds or notes by the issuance of its refunding bonds; and the governing board may pledge all or any part of the funds allotted pursuant to that section of the constitution to any institution governed by the board to secure the refunding bonds issued pursuant to this section. The refunding bonds shall be issued in the amounts, and bear interest at the rates, determined by the governing board, provided that such interest rates shall not exceed any

constitutional limit; and shall mature serially or otherwise in not more than 10 years. The refunding bonds shall be examined and approved by the attorney general, and when so approved shall be incontestable, and all bonds shall be registered by the comptroller of public accounts. The refunding bonds may be exchanged for bonds or notes issued pursuant to the section of the constitution or may be sold and the proceeds used to call and redeem the outstanding bonds and notes. (V.A.C.S. Art. 2909c—2.)

[Chapters 56 to 60 reserved for expansion]

SUBTITLE B. STATE COORDINATION OF HIGHER EDUCATION

CHAPTER 61. COORDINATING BOARD, TEXAS COLLEGE AND UNIVERSITY SYSTEM

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 61.001. Short Title.
- 61.002. Purpose.
- 61.003. Definitions.

[Sections 61.004 to 61.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 61.021. Establishment of Coordinating Board: Functions.
- 61.022. Members of Board; Appointment; Terms of Office.
- 61.023. Board Officers.
- 61.024. Compensation and Expenses of Members.
- 61.025. Quorum; Meetings; Agenda.
- 61.026. Committees and Advisory Committees.
- 61.027. Rules of Procedure; Hearings; Notice; Minutes.
- 61.028. Commissioner of Higher Education; Personnel; Consultants.

[Sections 61.029 to 61.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF BOARD

- 61.051. Coordination of Institutions of Public Higher Education.
- 61.052. List of Courses: Annual Submission to Board.
- 61.053. Board Orders; Notice.
- 61.054. Expenditures for Programs Disapproved by Board.
- 61.055. Initiation of New Departments, Schools, and Programs.
- 61.056. Review of Legislation Establishing Additional Institutions.
- 61.057. Promotion of Teaching Excellence.
- 61.058. Construction Funds and Development of Physical Plants.
- 61.059. Appropriations Recommendations.
- 61.060. Control of Public Junior Colleges.
- 61.061. Policies, Rules, and Regulations Respecting Junior Colleges.
- 61.062. Powers Respecting Junior Colleges.
- 61.063. Listing and Certification of Junior Colleges.
- 61.064. Cooperative Undertakings with Private Colleges and Universities.
- 61.065. Reporting; Accounting.
- 61.066. Studies and Recommendations; Reports.
- 61.067. Contracts.

Section

- 61.068. Gifts, Grants, Donations.
- 61.069. Board Report.
- 61.070. Duties of Central Education Agency not Affected.
- 61.071. Contract with United States for New Medical School.

[Sections 61.072 to 61.090 reserved for expansion]

SUBCHAPTER D. CONTRACTS WITH BAYLOR COLLEGE OF MEDICINE AND BAYLOR UNIVERSITY COLLEGE OF DENTISTRY

- 61.091. Definitions.
- 61.092. Contracts with Baylor College of Medicine.
- 61.093. Disbursements.
- 61.094. Contracts with Baylor University College of Dentistry.
- 61.095. Restrictions.

[Sections 61.096 to 61.200 reserved for expansion]

SUBCHAPTER E. CONTRACTS WITH THE TEXAS COLLEGE OF OSTEOPATHIC MEDICINE

- 61.201. Definitions.
- 61.202. Contracts with Texas College of Osteopathic Medicine.
- 61.203. Disbursements.
- 61.204. Restrictions.

SUBCHAPTER A. GENERAL PROVISIONS

Section 61.001. Short Title

This chapter may be cited as the Higher Education Coordinating Act of 1965. (V.A.C.S. Art. 2919e—2, Sec. 1 (part).)

§ 61.002. Purpose

The purpose of this chapter is to establish in the field of public higher education in the State of Texas an agency to provide leadership and coordination for the Texas higher education system, institutions, and governing boards, to the end that the State of Texas may achieve excellence for college education of its youth through the efficient and effective utilization and concentration of all available resources and the elimination of costly duplication in program offerings, faculties, and physical plants. (V.A.C.S. Art. 2919e—2, Sec. 1 (part).)

§ 61.003. Definitions

In this chapter:

(1) "Board" means the Coordinating Board, Texas College and University System.

(2) "Public junior college" means any junior college certified as required by law, including but not limited to the following as long as they retain certification: Alvin Junior College; Amarillo Junior College; Blinn Junior College, Brenham; Cisco Junior College; Clarendon Junior College; Cooke County Junior College, Gainesville; Del Mar Junior College, Corpus Christi; Frank Phillips Junior College, Borger; Grayson County Junior College, Denison; Henderson County Junior College, Athens; Hill County Junior College, Hillsboro; Howard County Junior College, Big Spring; Kilgore Junior College; Laredo Junior College; Lee Junior College, Baytown; Navarro County Junior College, Corsicana; Odessa Junior College; Panola County Junior College, Carthage; Paris

Junior College; Ranger Junior College; San Antonio Junior College; San Jacinto Junior College, Pasadena; South Plains Junior College, Levelland; Southwest Texas Joint Counties Junior College, Uvalde; Temple Junior College; Texarkana Junior College; Texas Southmost College, Brownsville; Tyler Junior College; Victoria Junior College; Weatherford Junior College; and Wharton County Junior College, Wharton.

(3) "General academic teaching institution" means The University of Texas at Austin; The University of Texas at El Paso; The University of Texas of the Permian Basin; The University of Texas at Dallas; The University of Texas at San Antonio; Texas A & M University, Main University; The University of Texas at Arlington; Tarleton State College; Prairie View Agricultural and Mechanical College; Texas Maritime Academy; Texas Tech University; North Texas State University; Lamar University; Texas A & I University; Texas Woman's University; Texas Southern University; Midwestern University; University of Houston; Pan American University; East Texas State University; Sam Houston State University; Southwest Texas State University; West Texas State University; Stephen F. Austin State University; Sul Ross State University; Angelo State University; and any other college, university, or institution so classified as provided in this chapter or created and so classified, expressly or impliedly, by law.

(4) "Public senior college or university" means a general academic teaching institution as defined above.

(5) "Medical and dental unit" means The University of Texas Medical Branch at Galveston; Southwestern Medical School; The University of Texas Medical School at San Antonio; The University of Texas Dental Branch at Houston; The University of Texas M. D. Anderson Hospital and Tumor Institute at Houston; The University of Texas Graduate School of Biomedical Sciences at Houston; The University of Texas Dental School at San Antonio; The University of Texas Medical School at Houston; the component institutions of The University of Texas Nursing School (Systemwide); and The University of Texas School of Public Health at Houston; and such other medical or dental schools as may be established by statute or as provided in this chapter.

(6) "Other agency of higher education" means The University of Texas System, System Administration; Texas Western University Museum; Texas A & M University System, Administrative and General Offices; Texas Agricultural Experiment Station; Texas Agricultural Extension Service; Rodent and Predatory Animal Control Service (a part of the Texas Agricultural Extension Service); Texas Engineering Experiment Station (including the Texas Transportation Institute); Texas Engineering Extension Service; Texas Forest Service; Texas Tech University Museum; Sam Houston Memorial Museum; Panhandle-Plains Historical Museum; Cotton Research Committee of Texas; Water Resources Institute of Texas; and any other unit, division, institution, or agency which shall be so designated by statute or which may be established to operate as a component part of any public senior college or university, or which may be so classified as provided in this chapter.

(7) "Institution of higher education" means any public junior college, public senior college or university, medical or dental unit, or other agency of higher education as defined in this section.

(8) "Governing board" means the body charged with policy direction of any public junior college, public senior college or university, medical or dental unit, or other agency of higher education, including but not limited to boards of directors, boards of regents, boards of trustees, and independent school district boards insofar as they are charged with policy direction of a public junior college.

(9) "University system" means the association of one or more public senior colleges or universities, medical or dental units, or other agencies.

of higher education under the policy direction of a single governing board.

(10) "Degree program" means any grouping of subject matter courses which, when satisfactorily completed by a student, will entitle him to a degree from a public senior college or university or a medical or dental unit.

(11) "Certificate program" means a grouping of subject-matter courses which, when satisfactorily completed by a student, will entitle him to a certificate, associate degree from a junior college, or documentary evidence, other than a degree, of completion of a course of study from an institution of higher education, provided that programs approved by or subject to the approval of the State Board of Vocational Education are excluded from this definition.

(12) "Recognized accrediting agency" means the Southern Association of Colleges and Schools and any other association or organization so designated by the board.

(13) "Educational and general buildings and facilities" means buildings and facilities essential to or commonly associated with teaching, research, or the preservation of knowledge. Excluded are auxiliary enterprise buildings and facilities, including but not limited to dormitories, cafeterias, student union buildings, stadiums, and alumni centers. (V.A.C.S. Art. 2919e—2, Sec. 2.)

[Sections 61.004 to 61.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 61.021. Establishment of Coordinating Board: Functions

The Coordinating Board, Texas College and University System, is an agency of the state. It shall have its office in Austin. It shall perform only the functions which are enumerated in this chapter and which the legislature may assign to it. Functions vested in the governing boards of the respective institutions of higher education not specifically delegated to the coordinating board shall be performed by the governing boards. The coordinating functions and other duties delegated to the board in this chapter shall apply to all public institutions of higher education. (V.A.C.S. Art. 2919e—2, Sec. 3.)

§ 61.022. Members of Board; Appointment; Terms of Office

The board shall consist of 18 members appointed by the governor so as to provide representation from all areas of the state with the advice and consent of the senate, and as the constitution provides. Of the initial appointments to the board six shall be for terms which shall expire August 31, 1967, six for terms which shall expire August 31, 1969, and six for terms which shall expire on August 31, 1971, or at such time as their successors are appointed and have qualified. Thereafter, the governor shall appoint members for terms of six years. Members of the Texas Commission on Higher Education are eligible for appointment to the board. No member may be employed professionally for remuneration in the field of education during his term of office. (V.A.C.S. Art. 2919e—2, Sec. 4 (part).)

§ 61.023. Board Officers

The governor shall designate a chairman and vice chairman of the board. The board shall appoint a secretary of the board whose duties may be prescribed by law and by the board. (V.A.C.S. Art. 2919e—2, Sec. 4 (part), Sec. 4a.)

§ 61.024. Compensation and Expenses of Members

Members of the board shall serve without pay but shall be reimbursed for their actual expenses incurred in attending meetings of the board or in attending to other work of the board when that other work is approved by the chairman of the board. (V.A.C.S. Art. 2919e—2, Sec. 5.)

§ 61.025. Quorum; Meetings; Agenda

A majority of the membership of the board constitutes a quorum. The board shall hold regular quarterly meetings in the city of Austin, and other meetings at places and times scheduled by it in formal sessions and called by the chairman. An agenda for the meetings in sufficient detail to indicate the items on which final action is contemplated shall be mailed to the chairman of each governing board and to the chief administrative officer of each state institution of higher education at least 30 days prior to the meeting. (V.A.C.S. Art. 2919e—2, Sec. 6.)

§ 61.026. Committees and Advisory Committees

The chairman may appoint committees from the board's membership as he or the board may find necessary from time to time. The board may appoint advisory committees from outside its membership as it may deem necessary. (V.A.C.S. Art. 2919e—2, Sec. 7.)

§ 61.027. Rules of Procedure; Hearings; Notice; Minutes

The board shall adopt and publish rules and regulations in accordance with and under the conditions applied to other agencies by Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252—13, Vernon's Texas Civil Statutes), to effectuate the provisions of this chapter. The board shall grant any institution of higher education a hearing upon request and after reasonable notice. Minutes of all meetings shall be available in the board's office for public inspection. (V.A.C.S. Art. 2919e—2, Sec. 8.)

§ 61.028. Commissioner of Higher Education; Personnel; Consultants

The board shall appoint a commissioner of higher education, who shall select and supervise the board's staff and perform other duties delegated to him by the board. The commissioner shall serve at the pleasure of the board. The commissioner shall be a person of high professional qualifications having a thorough background by training and experience in the fields of higher education and administration and shall possess such other qualifications as the board may prescribe. The commissioner shall employ professional and clerical personnel and consultants as necessary to assist the board and the commissioner in performing the duties assigned by this chapter. The number of employees, their compensation and the other expenditures of the board shall be within the limits and in compliance with the appropriation made for those purposes by the legislature and within budgets that shall be approved from time to time by the board. (V.A.C.S. Art. 2919e—2, Sec. 9.)

[Sections 61.029 to 61.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF BOARD**§ 61.051. Coordination of Institutions of Public Higher Education**

(a) The board shall represent the highest authority in the state in matters of public higher education.

(b) The board shall define a junior college, a senior college, a university, and a university system; provided, that nothing in this section may

be construed to authorize the board to establish or create any university system or to alter any university system presently existing by virtue of statute or the constitution of this state.

(c) The board shall develop and publish criteria to be used as a basis for determining the need for changing the classification of any public institution of higher education and for determining the need for new public junior colleges, public senior colleges, universities, or university systems.

(d) The board shall classify and prescribe the role and scope for each public institution of higher education in Texas, shall make such changes in classification or role and scope of each institution as it deems necessary, and shall hear applications from the institutions for changes in classification or role and scope.

(e) The board shall review periodically all degree and certificate programs offered by the institutions of higher education to assure that they meet the present and future needs of the state. The board shall also order the initiation, consolidation, or elimination of degree or certificate programs where that action is in the best interests of the institutions themselves or the general requirements of the State of Texas, or when that action offers hope of achieving excellence by a concentration of available resources. No new department, school, degree program, or certificate program may be added at any institution of higher education after September 1, 1965, except with specific prior approval of the board.

(f) The board shall encourage and develop in cooperation with the State Board of Vocational Education new certificate programs in technical and vocational education in institutions of higher education as the needs of technology and industry may demand and shall recommend the elimination of certificate programs for which a need no longer exists.

(g) The board shall develop and promulgate a basic core of general academic courses which, when offered at a junior college during the first two years of collegiate study, shall be freely transferable among all public institutions of higher education in Texas which are members of recognized accrediting agencies on the same basis as if the work had been taken at the receiving institution.

(h) The board shall make continuing studies of the needs of the state for research and for extension and public services and designate the institutions of higher education to perform research, public service, and extension programs, including limitation of extension programs for credit to specific geographic areas. The board shall also maintain an inventory of all institutional and programmatic research, extension, and public service activities being conducted by the various institutions, whether state-financed or not. Once a year, on dates prescribed by the board, each institution of higher education shall report to the board all research conducted at that institution during the last preceding year. All reports required by this subsection shall be made subject to the limitations imposed by security regulations governing defense contracts for research.

(i) The board shall develop and promote one or more degree or certificate programs to the highest attainable quality at each institution of higher education for which the particular institution is uniquely suited and for which there is marked promise of excellence. (V.A.C.S. Art. 2919e—2, Sec. 10.)

§ 61.052. List of Courses: Annual Submission to Board

Each governing board shall submit to the board once each year on dates designated by the board a comprehensive list by department, division, and school of all courses, together with a description of content, scope, and prerequisites of all these courses, that will be offered by each institution under the supervision of that governing board during the following academic year. The board may order the deletion or consolidation of any courses so submitted after giving due notice with reasons for that

action and after providing a hearing if one is requested by the governing board involved. (V.A.C.S. Art. 2919e—2, Sec. 11.)

§ 61.053. Board Orders; Notice

(a) Any order of the board affecting the classification, role and scope, and program of any institution of higher education may be entered only after:

(1) a written factual report and recommendations from the commissioner of higher education covering the matter to be acted on have been received by the board and distributed to the governing board and the administrative head of the affected institution;

(2) the question has been placed upon the agenda for a regularly-scheduled quarterly meeting; and

(3) the governing board of the affected institution has had an opportunity to be heard.

(b) Notice of the board's action shall be given in writing to the governing board concerned not later than four months preceding the fall term in which the change is to take effect. (V.A.C.S. Art. 2919e—2, Sec. 12.)

§ 61.054. Expenditures for Programs Disapproved by Board

No funds appropriated to any institution of higher education may be expended for any program which has been disapproved by the board, unless the program is subsequently specifically approved by the legislature. (V.A.C.S. Art. 2919e—2, Sec. 13 (part).)

§ 61.055. Initiation of New Departments, Schools, and Programs

No new department, school, or degree or certificate program approved by the board or its predecessor, the Texas Commission on Higher Education, may be initiated by any institution of higher education until the board has made a written finding that the department, school, or degree or certificate program is adequately financed by legislative appropriation, by funds allocated by the board, or by funds from other sources. (V.A.C.S. Art. 2919e—2, Sec. 13 (part).)

§ 61.056. Review of Legislation Establishing Additional Institutions

Any proposed statute which would establish an additional institution of higher education, except a public junior college, shall be submitted, either prior to introduction or by the standing committee considering the proposed statute, to the board for its opinion as to the state's need for the institution. The board shall report its findings to the governor and the legislature. A recommendation that an additional institution is needed shall require the favorable vote of at least two-thirds of the members of the board. A recommendation of the board shall not be considered a condition precedent to the introduction or passage of any proposed statute. (V.A.C.S. Art. 2919e—2, Sec. 13 (part).)

§ 61.057. Promotion of Teaching Excellence

To achieve excellence in the teaching of students at institutions and agencies of higher education, the board shall:

(1) develop and recommend:

(A) minimum faculty compensation plans, basic increment programs, and incentive salary increases;

(B) minimum standards for faculty appointment, advancement, promotion, and retirement;

(C) general policies for faculty teaching loads, and division of faculty time between teaching, research, administrative duties, and special assignments;

(D) faculty improvement programs, including a plan for sabbatical leaves, appropriate for the junior and senior colleges and universities, respectively; and

(E) minimum standards for academic freedom, academic responsibility, and tenure;

(2) pursue vigorously and continuously a goal of having all college and university academic classes taught by persons holding the minimum of an earned master's degree or its equivalent in academic training, creative work, or professional accomplishment;

(3) explore, promote, and coordinate the use of educational television among institutions of higher education and encourage participation by public and private schools and private institutions of higher education in educational television;

(4) conduct, and encourage the institutions of higher education to conduct, research into new methods, materials, and techniques for improving the quality of instruction and for the maximum utilization of all available teaching techniques, devices, and resources, including but not limited to large classes, team teaching, programmed instruction, interlibrary exchanges, joint libraries, specially-designed facilities, visual aids, and other innovations that offer promise for superior teaching or for meeting the need for new faculty members to teach anticipated larger numbers of students; and

(5) assume initiative and leadership in providing through the institutions of higher education in the state those programs and offerings which will achieve the objectives set forth in Section 61.002 of this code. (V.A.C.S. Art. 2919e—2, Sec. 14.)

§ 61.058. Construction Funds and Development of Physical Plants

To assure efficient use of construction funds and the orderly development of physical plants to accommodate projected college student enrollments, the board shall:

(1) determine formulas for space utilization in all educational and general buildings and facilities at institutions of higher education;

(2) devise and promulgate methods to assure maximum daily and year-round use of educational and general buildings and facilities, including but not limited to maximum scheduling of day and night classes and maximum summer school enrollment;

(3) consider plans for selective standards of admission when institutions of higher education approach capacity enrollment;

(4) require, and assist the public senior colleges and universities, medical and dental units, and other agencies of higher education in developing, long-range plans for campus development;

(5) endorse, or delay until the next succeeding session of the legislature has the opportunity to approve or disapprove, the proposed purchase of any real property by an institution of higher education, except a public junior college;

(6) develop and publish standards, rules, and regulations to guide the institutions and agencies of higher education in making application for the approval of new construction and major repair and rehabilitation of educational and general buildings and facilities; and

(7) approve or disapprove all new construction and repair and rehabilitation of educational and general buildings and facilities at institutions of higher education financed from any source other than ad valorem tax receipts of the public junior colleges, provided that:

(A) the board's consideration and determination shall be limited to the purpose for which the new or remodeled buildings are to be used and their gross dimensions to assure conformity with approved space utilization standards and the institution's approved programs and role and scope;

(B) the requirement of approval for new construction financed from other than appropriated funds applies only to projects the total cost of which is in excess of \$100,000;

(C) the requirement of approval for major repair and rehabilitation of buildings and facilities applies only to projects the total cost of which is in excess of \$25,000; and

(D) the requirement of approval or disapproval by the board does not apply to construction, repair, or rehabilitation involving the use of constitutional funds which are authorized by Article VII, Section 11, 17, or 18, of the Texas Constitution. (V.A.C.S. Art. 2919e—2, Sec. 15.)

§ 61.059. Appropriations Recommendations

(a) To finance a system of higher education and to secure an equitable distribution of state funds deemed to be available for higher education, the board shall perform the functions described in this section.

(b) The board shall devise, establish, and periodically review and revise formulas for the use of the governor and the Legislative Budget Board in making appropriations recommendations to the legislature. Not later than March 1 of every even-numbered calendar year, the board shall notify the governing boards and the chief administrative officers of the respective institutions of higher education and university systems, the governor, and the Legislative Budget Board of the formulas designated by the board to be used by the institutions in making appropriation requests for the next succeeding biennium and shall certify to the governor and the Legislative Budget Board that each institution has prepared its appropriation request in accordance with the designated formulas and in accordance with the uniform system of reporting provided in this chapter. The board shall furnish any other assistance to the governor and the Legislative Budget Board in the development of appropriations recommendations as either or both of them may request. However, nothing in this chapter shall prevent or prohibit the governor, the Legislative Budget Board, the board, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the board and advancing reasons and arguments in support of them.

(c) The board shall recommend to the governor and the Legislative Budget Board supplemental contingent appropriations to provide for increases in enrollment at the institutions of higher education. Contingent appropriations may be made directly to the institutions or to the board, as the legislature may direct in each biennial appropriations act. In the event the contingent appropriation is made to the board, the funds shall be allocated and distributed by the board to the institutions as it may determine, subject only to such limitations or conditions as the legislature may prescribe.

(d) The board shall recommend to the governor and the Legislative Budget Board tuition policies for public junior colleges, public senior colleges and universities, medical and dental units, and other agencies of higher education and vocational and technical programs receiving support from state funds.

(e) The board shall distribute funds appropriated to the board for allocation for specified purposes under limitations prescribed by law and the rules and regulations of the board in conformity therewith, provided that no distribution or allocation may be made to any institution of higher education which has failed or refused to comply with any order of the board as long as that failure or refusal continues.

(f) The board shall make continuing studies on its own initiative or upon the request of the governor or the Legislative Budget Board of the

financial needs of public higher education and all services and activities of the institutions of higher education and issue reports to the governor and the Legislative Budget Board that result from its studies. (V.A.C.S. Art. 2919e—2, Sec. 16.)

§ 61.060. Control of Public Junior Colleges

The board shall exercise, under the acts of the legislature, general control of the public junior colleges of this state, on and after September 1, 1965. All authority not vested by this chapter or other laws of the state in the board is reserved and retained locally in each respective public junior college district or the governing board of each public junior college as provided in the applicable laws. (V.A.C.S. Art. 2919e—2, Sec. 17.)

§ 61.061. Policies, Rules, and Regulations Respecting Junior Colleges

The board has the responsibility for adopting policies, enacting regulations, and establishing general rules necessary for carrying out the duties with respect to public junior colleges placed upon it by the legislature. The commissioner of higher education is responsible for carrying out these policies and enforcing these rules and regulations. (V.A.C.S. Art. 2919e—2, Sec. 18.)

§ 61.062. Powers Respecting Junior Colleges

(a) The board may authorize the creation of public junior college districts as provided in the applicable laws. In the exercise of this authority the board shall give particular attention to the need for a public junior college in the proposed district, and the ability of the district to provide adequate local financial support.

(b) The board may dissolve any public junior college district which has failed to establish and maintain a junior college in the district within three years from the date of its authorization.

(c) The board may adopt standards for the operation of public junior colleges and prescribe rules and regulations for them.

(d) The board may require of each public junior college whatever reports it deems necessary in accordance with its rules and regulations.

(e) The board may establish advisory commissions composed of representatives of public junior colleges and other citizens of the state to provide advice and counsel to the board with respect to public junior colleges. (V.A.C.S. Art. 2919e—2, Sec. 19.)

§ 61.063. Listing and Certification of Junior Colleges

The commissioner of higher education shall file with the state auditor and the state comptroller on or before October 1 of each year a list of the public junior colleges in this state. The commissioner shall certify the names of those colleges that have complied with the standards, rules, and regulations prescribed by the board. Only those colleges which are so certified shall be eligible for and may receive any appropriation made by the legislature to public junior colleges. (V.A.C.S. Art. 2919e—2, Sec. 20.)

§ 61.064. Cooperative Undertakings with Private Colleges and Universities

The board shall:

(1) enlist the cooperation of private colleges and universities in developing a statewide plan for the orderly growth of the Texas system of higher education;

(2) encourage cooperation between public and private institutions of higher education wherever possible and may enter into cooperative under-

takings with those institutions on a shared-cost basis as permitted by law;

(3) consider the availability of degree and certificate programs in private institutions of higher education in determining programs for public institutions of higher education; and

(4) cooperate with these private institutions, within statutory and constitutional limitations, to achieve the purposes of this chapter. (V.A.C.S. Art. 2919e—2, Sec. 21.)

§ 61.065. Reporting; Accounting

After consultation with the governor, the state auditor, and the Legislative Budget Board, the board shall prescribe a uniform system of reporting for institutions of higher education, including definitions of the elements of cost on the basis of which appropriations shall be made and financial records shall be maintained. Financial reports of the institutions of higher education shall classify accounts in accordance with the recommendation of the National Committee on the Preparation of a Manual on College and University Business Administration as set forth in Volume I of *College and University Business Administration* published by the American Council on Education with a copyright date of 1952, and subsequent published revisions, with such modifications as may be developed as provided by this chapter or as may be required to conform with specific provisions of the biennial appropriations acts of the legislature. The accounts of the institutions shall be maintained and audited in accordance with the approved reporting system. (V.A.C.S. Art. 2919e—2, Sec. 22.)

§ 61.066. Studies and Recommendations; Reports

The board shall make studies and recommendations directed toward the achievement of excellence or toward improved effectiveness and efficiency in any phase of higher education in Texas and shall report on their studies and recommendations to the governor and the legislature. The officials of the institutions of higher education shall comply with requests for reports or information made by the board or the commissioner. To assure that the institutions of higher education timely file various reports with the appropriate agencies, the board shall receive and distribute the reports required by statute to be filed with the governor, the Legislative Budget Board, the state auditor, the state library, and any other state agency. (V.A.C.S. Art. 2919e—2, Sec. 23.)

§ 61.067. Contracts

In achieving the goals outlined in this chapter and in performing the functions assigned to it, the board may contract with any other state governmental agency as authorized by law, with any agency of the United States, and with corporations and individuals. The board shall propose, foster, and encourage the use of interagency contracts among the institutions of higher education to reduce duplication and achieve better use of personnel and facilities. (V.A.C.S. Art. 2919e—2, Sec. 24.)

§ 61.068. Gifts, Grants, Donations

The board may accept gifts, grants, or donations of personal property from any individual, group, association, or corporation, or the United States, subject to such limitations or conditions as may be provided by law. Gifts, grants, or donations of money shall be deposited in the state treasury and expended in accordance with the specific purpose for which given, under such conditions as may be imposed by the donor and as provided by law. (V.A.C.S. Art. 2919e—2, Sec. 25.)

§ 61.069. Board Report

The board shall make a report of its activities to the governor annually and to the legislature not later than December 1 prior to the regular session of the legislature. (V.A.C.S. Art. 2919e—2, Sec. 26.)

§ 61.070. Duties of Central Education Agency not Affected

None of the duties or functions assigned by statute to the central education agency, except those relating to public junior colleges, are affected by this chapter. (59th Legis., Ch. 12, Sec. 2 (part).)

§ 61.071. Contract with United States for New Medical School

The board may negotiate and contract with the appropriate agency or agencies of the United States for the establishment, operation, and maintenance of a medical school to be located at or in connection with any Veterans Administration facility that may be made available for the purpose. In any such contract, the board shall designate one of the two university systems or another appropriate state-supported institution of higher education under whose governing board the medical school shall be operated. (S.B.No.1028, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3362, ch. 1024, Art. 2, § 43, eff. Sept. 1, 1971.

[Sections 61.072 to 61.090 reserved for expansion]

SUBCHAPTER D. CONTRACTS WITH BAYLOR COLLEGE OF MEDICINE AND BAYLOR UNIVERSITY COLLEGE OF DENTISTRY**§ 61.091. Definitions**

In this subchapter:

(1) "Bona fide Texas resident" means a person defined as a "resident student" in Subchapter B, Chapter 54 of this code, and rules, regulations, and interpretations promulgated under that subchapter by the board or the Commission on Higher Education.

(2) "Established public medical schools" means The University of Texas Medical Branch and Southwestern Medical School.

(3) "Undergraduate medical student" means a person enrolled for a regular schedule of courses in pursuit of a Doctor of Medicine degree.

(4) "Scholastic year of disbursement" means the period of time commencing on September 1 of each calendar year and terminating on August 31 of the next succeeding calendar year. The first scholastic year of disbursement commences on September 1, 1970, and terminates on August 31, 1971.

(5) "Average annual state tax support per undergraduate medical student enrolled at the established public medical schools" means an amount calculated by dividing the net general revenue appropriations to the established public medical schools for the fiscal year next preceding the scholastic year of disbursement by the total number of undergraduate medical students enrolled in those schools on October 15 of the fiscal year. (V.A.C.S. Art. 2919e—2.1, Sec. 1.)

§ 61.092. Contracts with Baylor College of Medicine

The board may contract with Baylor College of Medicine for the administration, direction, and performance of all services and the provision, maintenance, operation, and repair of all buildings, facilities, structures, equipment, and materials necessary or proper to the education, training, preparation, or instruction of bona fide Texas resident undergraduate medical students. However, nothing in this subchapter may be construed to empower the board to limit, alter, modify, or in any other manner

change or approve, or negotiate for changes in or approval of, the administration, direction, and performance of these services or the provision, maintenance, operation, and repair of buildings, facilities, structures, equipment, or materials. (V.A.C.S. Art. 2919e—2.1, Sec. 2.)

§ 61.093. Disbursements

(a) In the exercise of the authority described in Section 61.092 of this code, the board may disburse to Baylor College of Medicine, during each scholastic year of disbursement, an amount equal to the average annual state tax support per undergraduate medical student at the established public medical schools, multiplied by the number of bona fide Texas resident undergraduate medical students enrolled at Baylor College of Medicine. However, the board may never disburse an amount exceeding the amount appropriated by the legislature for this purpose.

(b) Subject to the limitations described in Subsection (a) of this section, the board may establish, by contract with Baylor College of Medicine, the method by which the disbursement shall be accomplished, and may prescribe reasonable rules and regulations necessary to ascertain the average annual state tax support per undergraduate medical student at the established public medical schools. (V.A.C.S. Art. 2919e—2.1, Sec. 3.)

§ 61.094. Contracts with Baylor University College of Dentistry

The board may contract with the Baylor University of College of Dentistry, to the extent it is owned by a nonprofit corporation distinct from the Baptist Church, for the education, training, preparation, or instruction of bona fide Texas resident undergraduate dental students enrolled for a regular schedule of courses in pursuit of a Doctor of Dentistry degree, in the same manner as provided in this subchapter for medical students, including all powers with respect to medical students, and all powers with respect to the Board and the Baylor University College of Medicine granted in this subchapter. For the purposes of this section, The University of Texas Dental Branch at Houston shall be used to calculate the average annual state tax support per undergraduate dental student. (V.A.C.S. Art. 2919e—2.1, Sec. 4.)

§ 61.095. Restrictions

The rights, powers, and authority granted in this subchapter shall not be subject to restriction, limitation, obligation, or requirement provided in Section 61.058 of this code or Articles 665 through 678m, inclusive, of Vernon's Texas Civil Statutes, notwithstanding any other provision in this subchapter. (V.A.C.S. Art. 2919e—2.1, Sec. 5.)

[Sections 61.096 to 61.200 reserved for expansion]

SUBCHAPTER E. CONTRACTS WITH THE TEXAS COLLEGE OF OSTEOPATHIC MEDICINE

§ 61.201. Definitions

In this subchapter, unless context otherwise requires:

(1) "Bona fide Texas resident" means a person defined as a "resident student" in Subchapter B, Chapter 54, of this code, and rules, regulations, and interpretations promulgated thereunder by the coordinating board or the Commission on Higher Education.

(2) "Established public medical schools" means The University of Texas Medical Branch and Southwestern Medical School.

(3) "Undergraduate medical student" means a person enrolled for a regular schedule of courses in pursuit of a Doctor of Medicine degree or Doctor of Osteopathy degree.

(4) "Scholastic year of disbursement" means a period of time commencing on September 1 of each calendar year and terminating on August 31 of the next succeeding calendar year. The first scholastic year of disbursement shall commence on September 1, 1971, and shall terminate on August 31, 1972.

(5) "Average annual state support per undergraduate medical student enrolled at the established public medical schools" means an amount calculated by dividing the state appropriations for undergraduate medical education to the established public medical schools for the fiscal year next preceding the scholastic year of disbursement by the total number of undergraduate medical students enrolled in those schools on October 15 of said fiscal year.

Added by Acts 1971, 62nd Leg., p. 3338, ch. 1024, Art. 2, § 6, eff. Sept. 1, 1971.

§ 61.202. Contracts with Texas College of Osteopathic Medicine

So long as there is no public school of osteopathic medicine in this state, the coordinating board is hereby vested with the right, power, and authority to contract with Texas College of Osteopathic Medicine for the preparation or instruction of bona fide Texas resident undergraduate medical students as Doctors of Osteopathic Medicine.

Added by Acts 1971, 62nd Leg., p. 3339, ch. 1024, Art. 2, § 6, eff. Sept. 1, 1971.

§ 61.203. Disbursements

(a) In the exercise of the rights, powers, and authority described in Section 61.202 of this code, the Coordinating Board may disburse to Texas College of Osteopathic Medicine, during each scholastic year of disbursement, an amount equal to the average annual state support per undergraduate medical student at the established public medical schools, as certified pursuant to Section 61.201(5) of this code, multiplied by the number of bona fide Texas resident undergraduate medical students enrolled at Texas College of Osteopathic Medicine; provided, however, that the coordinating board shall never disburse an amount exceeding the amount appropriated by the legislature for this purpose. Expenditures by the Texas College of Osteopathic Medicine of any state funds received by it shall be limited to the payment of instructional costs, general administration and student services, faculty salaries, departmental operating expense, and library. Any payment paid in whole or in part from funds appropriated for this purpose shall conform to the practices and limitations common to established public medical schools in Texas and shall be set forth in writing annually by the board of regents of The University of Texas System in substantially the same form as applicable to such public medical schools by such board of regents, and made a part of each disbursement contract.

(b) Subject to the limitations described in this section, the coordinating board is hereby granted the right, power, and authority to establish, by contract, with Texas College of Osteopathic Medicine the method by which the above-described disbursement shall be accomplished, and may prescribe such reasonable rules and regulations as are necessary to carry out the provisions of this section including, but not limited to, a prior consultation on the annual budget and a post audit of expenditures in a manner acceptable to the state auditor.

Added by Acts 1971, 62nd Leg., p. 3339, ch. 1024, Art. 2, § 6, eff. Sept. 1, 1971.

§ 61.204. Restrictions

The rights, powers, and authority granted herein shall not be subject to restriction, limitation, obligation, or requirement provided in Section 61.-

058 of this code or Chapter 4, Title 20, Revised Civil Statutes of Texas, 1925, as amended, notwithstanding any other provision hereof. (S.B. No.160, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3339, ch. 1024, Art. 2, § 6, eff. Sept. 1, 1971.

[Chapters 62 to 64 reserved for expansion]

SUBTITLE C. THE UNIVERSITY OF TEXAS SYSTEM

CHAPTER 65. ADMINISTRATION OF THE UNIVERSITY OF TEXAS SYSTEM

SUBCHAPTER A. GENERAL PROVISIONS

Section

65.01. Definitions.

[Sections 65.02 to 65.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 65.11. Board of Regents.
- 65.12. Qualifications; Terms.
- 65.13. Board Officers.
- 65.14. Expenses.
- 65.15. Seal.

[Sections 65.16 to 65.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF BOARD

- 65.31. General Powers and Duties.
- 65.32. Removal of Officers, Etc.
- 65.33. Eminent Domain.
- 65.34. Contracts.
- 65.35. Expenditures.
- 65.36. Donations for Professorships and Scholarships.
- 65.37. Funds Received for Trust Services.
- 65.38. Nonsectarian.
- 65.39. Management of Lands other than Permanent University Fund Lands.
- 65.40. Environmental Science Park.

SUBCHAPTER A. GENERAL PROVISIONS

Section 65.01. Definitions

In this chapter:

- (1) "System" or "university system" means The University of Texas System.
- (2) "Board" means the board of regents of The University of Texas System. (New.)

[Sections 65.02 to 65.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**§ 65.11. Board of Regents**

The government of the university system is vested in a board of nine regents appointed by the governor with the advice and consent of the senate. (R.S. Art. 2584 (part); V.A.C.S. Art. 2584a.)

§ 65.12. Qualifications; Terms

Each member of the board shall be a qualified voter; and the members shall be selected from different portions of the state. The members hold office for staggered terms of six years, with the terms of three expiring every two years. (R.S. Art. 2907 (part).)

§ 65.13. Board Officers

The board shall elect a chairman from its members to serve at the will of the board. The state treasurer shall be the treasurer of the university system. (R.S. Art. 2584 (part).)

§ 65.14. Expenses

The reasonable expenses incurred by members of the board in the discharge of their duties shall be paid from the available university fund. (R.S. Art. 2589.)

§ 65.15. Seal

The board may make and use a common seal and may alter it at will. (R.S. Art. 2584 (part).)

[Sections 65.16 to 65.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF BOARD**§ 65.31. General Powers and Duties**

(a) The board is authorized and directed to govern, operate, support, and maintain each of the component institutions that are now or may hereafter be included in a part of The University of Texas System.

(b) The board is authorized to prescribe for each of the component institutions courses and programs leading to such degrees as are customarily offered in outstanding American universities, and to award all such degrees. It is the intent of the legislature that such degrees shall include baccalaureate, master's, and doctoral degrees, and their equivalents, but no new department, school, or degree-program shall be instituted without the prior approval of the Coordinating Board, Texas College and University System.

(c) The board has authority to promulgate and enforce such other rules and regulations for the operation, control, and management of the university system and the component institutions thereof as the board may deem either necessary or desirable. The board is specifically authorized and empowered to determine and prescribe the number of students that shall be admitted to any course, department, school, college, degree-program, or institution under its governance.

(d) The board is specifically authorized to make joint appointments in the component institutions under its governance. The salary of any person who receives such joint appointment shall be apportioned to the appointing institutions on the basis of services rendered.

(e) The board is specifically authorized, upon terms and conditions acceptable to it, to accept and administer gifts, grants, or donations of any kind, from any source, for use by the system or any of the component institutions of the system.

(f) No component institution which is not authorized to offer a four-year undergraduate program shall offer a four-year undergraduate program without the specific authorization of the legislature. (Sec. 1, H.B. No.474, 62nd Legis., Reg.Sess., 1971.) (R.S. Art. 2585.)
Amended by Acts 1971, 62nd Leg., p. 3360, ch. 1024, Art. 2, § 37, eff. Sept. 1, 1971.

§ 65.32. Removal of Officers, Etc.

The board may remove any officer, member of the faculty, or employee connected with the system when in its judgment the interest of the system requires the removal. (R.S. Art. 2586.)

§ 65.33. Eminent Domain

(a) The board has the power of eminent domain to acquire for the use of the university system any land that may be necessary and proper for carrying out its purposes in the manner prescribed in Title 52, Revised Civil Statutes of Texas, 1925, as amended.

(b) Whenever the board has 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, it 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 trustees the board may exercise for the purpose of the trust the power of eminent domain and may condemn land and other property as provided by Title 52, Revised Civil Statutes of Texas, 1925, as amended.

(c) The taking of the property is declared to be for the use of the state. The board shall not be required to deposit a bond or the amount equal to the award of damages by the commissioners as provided in Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925. (V.A.C.S. Art. 2585b; Art. 3264b.)

§ 65.34. Contracts

(a) All contracts with architects, plan makers, landscapers, or draftsmen, or with any other person, firm, or corporation of whatever name or designation shall be absolutely void unless approved by the signed written vote of a majority of the board in regular or called meeting assembled.

(b) All contracts for the construction or erection of permanent improvements shall be absolutely void unless made after receiving sealed competitive bids after advertisement by the chairman of the board of regents for four consecutive weeks in one or more newspapers of general circulation in the State of Texas, and the bids are considered and awards made to the lowest responsible bidder by the signed written vote of a majority of the board in a regular or called meeting assembled. The bids and awards shall be made only after the publication. (R.S. Art. 2593.)

§ 65.35. Expenditures

All expenditures may be made by the order of the board and shall be paid on warrants from the comptroller based on vouchers approved by the chairman of the board or his delegate, or by the institutional head or his delegate of the component institution making the expenditures. (R.S. Art. 2594.)

§ 65.36. Donations for Professorships and Scholarships

(a) Donations of property may be made for the purpose of establishing or assisting in the establishment of a professorship or scholarship in the

university system or any of its institutions, either temporarily or permanently, and the donations will be governed by the rules prescribed by this section.

(b) The legal title to the property shall be vested in a person or persons, body corporate, or the State of Texas, to be held in trust for the purpose under any directions, limitations, and provisions that may be declared in writing in the donation, not inconsistent with the objects and proper management of the system or its institutions.

(c) The donor may declare and direct the manner in which the title to the property shall thereafter be transmitted from the trustee in continued succession, to be held for and appropriated to the declared purposes.

(d) The donor may declare and direct the person or class of persons who shall receive the benefit of the donation and the manner of their selection.

(e) The declarations, directions, and limitations shall not be inconsistent with the objects and proper management of the system or its institutions.

(f) In case of failure to transmit the title to the property or to bestow its use in the manner declared and directed in the donation, or in case the uses, or either of them, become impracticable from the change of circumstances, the title to the property, unless otherwise expressly directed by the donor, shall vest in this state to be held in trust to carry into effect the purposes of the donation as nearly as practicable by such agencies as may be provided therefor.

(g) The title to the property donated shall be received, and the trust conferred in the donation shall be assumed, subject to laws that may be passed and carried into effect from time to time which may be necessary to prevent the loss of, or damage to, the property donated, or an abuse or neglect of the trust so as to defeat, materially change, or prevent the objects of the donation.

(h) Copies of the donation shall be filed with the board or the branch to which the donation applies; and the board shall report the condition and management of the property and the manner in which the trust is being administered as part of the matters reported pertaining to the institution. (R.S. Art. 2595.)

§ 65.37. Funds Received for Trust Services

The board may deposit in an appropriate university account all funds received as administrative fees or charges for services rendered in the management and administration of any trust estate under the control of the university system or any institution of the system. The funds so received as administrative fees or charges may be expended by the board for any educational purpose of the university system. (V.A.C.S. Art. 2594a.)

§ 65.38. Nonsectarian

No religious qualification shall be required for admission to any office or privilege in the university system. No course of instruction of a sectarian character shall be taught in the system. (R.S. Art. 2604.)

§ 65.39. Management of Lands other than Permanent University Fund Lands

The board of regents of The University of Texas System has the sole and exclusive management and control of the lands set aside and appropriated to, or acquired by, The University of Texas System. The board

may sell, lease, and otherwise manage, control, and use the lands in any manner and at prices and under terms and conditions the board deems best for the interest of The University of Texas System, not in conflict with the constitution. However, the land shall not be sold at a price less per acre than that at which the same class of other public land may be sold under the statutes. No grazing lease shall be made for a period of more than 10 years. (R.S. Art. 2596; V.A.C.S. Art. 2592a, Sec. 1; Art. 2603b—1.)

§ 65.40. Environmental Science Park

(a) The board is hereby authorized to establish, maintain, and support an environmental science park in Bastrop County, Texas, on lands owned or controlled by it, the administration and business management of which shall be delegated to The University of Texas M. D. Anderson Hospital and Tumor Institute at Houston.

(b) The board shall have authority to cooperate with agencies, institutions, instrumentalities, and subdivisions of this state, other states, and the federal government; and with private institutes, institutions, foundations, and organizations, in the furtherance of this section, and the promotion of educational and environmental science programs.

(c) The board is specifically authorized upon terms and conditions acceptable to it, to accept and administer, gifts, grants, or donations, of any kind, from any source, to aid in the establishment, operation, maintenance, or administration of the environmental science park. (S.B.No. 278, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3336, ch. 1024, Art. 2, § 2, eff. Sept. 1, 1971.

CHAPTER 66. PERMANENT UNIVERSITY FUND

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SUBCHAPTER A. COMPOSITION, INVESTMENT, AND USE

Section 66.01. Permanent University Fund

The composition, investment, purposes, and use of the permanent university fund are governed by Article VII, Sections 10, 11, 11a, 15, and 18, of the Texas Constitution. (New.)

§ 66.02. Available University Fund

The dividends, interest, and other income from the permanent university fund shall constitute the available university fund. All income derived from the permanent university fund shall be deposited in the State Treasury to the credit of the available university fund within five days after receipt by any state officer, agent, or employee. (V.A.C.S. Art. 2654d, Sec. 5 (part).)

§ 66.03. Apportionment and Use of Available Fund

(a) The reference in Article VII, Section 18, of the Texas Constitution, to "Chapter 42 of the Acts of the Regular Session of the 42nd Legislature of the State of Texas" shall be construed to mean this section.

(b) The board of regents of The University of Texas System shall expend as much of the available university fund as is appropriated by the legislature for the administration of the university lands and of the permanent university fund, the expenses to be apportioned between the two systems in proportion to their receipts of available university funds under the terms of this section.

(c) The board of directors of The Texas A&M University System shall expend one-third of all the available university fund received from the permanent university fund arising from the 1,000,000 acres of land appropriated by the constitution and the land appropriated by the Act of 1883, except income from grazing leases on university lands (less its proportion of expenses of administration and excluding any expenses of admin-

istration from grazing leases); and the board of regents of The University of Texas System shall expend the balance of the available fund, including all the income from grazing leases on university lands (less its proportion of expenses of administration). (R.S. Art. 2592.)

§ 66.04. Validity of Bonds Purchased by Board

Whenever the board has purchased the bonds of any city, county, or municipality, approved by the attorney general, the certificate of the attorney general attesting their validity shall be admitted and received as prima facie evidence of the validity of the bonds; and in all cases in which the proceeds of the sale of these bonds have been received by the proper officers of the city, municipality, or county, or by the party acting for them in negotiating the sale of the bonds, the city, municipality, or county is thereafter estopped from denying the validity of the bonds and they shall be held to be valid and binding obligations. In the case of any bonds bought under this section, premium or discount shall be distributed over the life of the bonds. (V.A.C.S. Art. 2591a, Secs. 3 (part), 4 (part).)

§ 66.05. Reports

(a) Before December 1 of each year the board of regents of The University of Texas System shall prepare a written report disclosing all details concerning the investments made and income realized from the permanent university fund during the year ending August 31 preceding the publication of the report.

(b) The report shall contain a summary of all investments and an itemized list of all securities held for the fund on August 31, a summary of investment changes during the preceding year, and a summary of all income realized from the various components of the fund. The report shall also contain any other information needed to clearly indicate the nature and extent of investments made of the fund and all income realized from the components of the fund.

(c) The report shall be distributed to the governor, state treasurer, state comptroller of public accounts, state auditor, attorney general, commissioner of higher education, and to the members of the legislature by the 1st day of January each year. The board shall furnish copies of the report to any interested person on request. (H.B.No.1198, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3347, ch. 1024, Art. 2, § 20, eff. Sept. 1, 1971.

[Sections 66.06 to 66.20 reserved for expansion]

SUBCHAPTER B. PERMANENT UNIVERSITY FUND BONDS AND NOTES

§ 66.21. Registration

All bonds and notes issued pursuant to the provisions of Article VII, Section 18, of the Texas Constitution, as originally adopted or as amended, shall be registered by the comptroller of public accounts after they have been approved by the attorney general. (V.A.C.S. Art. 2909d, Sec. 1.)

§ 66.22. Refunding Bonds and Notes

Any bonds or notes issued pursuant to the constitutional provisions described in Section 66.21 of this code, or issued pursuant to this subchapter, may be refunded by the governing board which issued the bonds or

notes, upon such terms and conditions, including interest rates and maturities, as may be determined by that board, provided that such terms and conditions shall not be inconsistent with the applicable constitutional provisions. Any such bonds or notes may be so refunded by the issuance of refunding bonds or notes, either to be exchanged for the bonds or notes being refunded and cancelled, or to be sold, with the proceeds to be used for the redemption and cancellation of the bonds or notes being refunded. (V.A.C.S. Art. 2909d, Sec. 2.)

§ 66.23. Refunding Bonds and Notes: Approval; Registration

All refunding bonds or notes authorized to be issued under this subchapter and the records relating to their issuance, including any proceedings relating to the redemption of any outstanding bonds or notes, shall be submitted to the attorney general for examination, and if he finds that they have been issued in accordance with law, he shall approve them, and then they shall be registered by the comptroller of public accounts, and after such approval and registration they shall be incontestable. When any such refunding bonds or notes are issued to be exchanged for any outstanding bonds or notes, the comptroller of public accounts shall register and deliver such refunding bonds on surrender for cancellation of the bonds or notes being refunded. When any such refunding bonds or notes are sold, with the proceeds to be used for redeeming any outstanding bonds or notes, the comptroller of public accounts shall register such refunding bonds or notes, even though the bonds or notes to be redeemed shall not have been surrendered for redemption or cancellation. (V.A.C.S. Art. 2909d, Sec. 3.)

§ 66.24. Authorized Investments; Security for Deposits

All bonds and notes, whether original or refunding, issued pursuant to the constitutional provisions or issued pursuant to this subchapter, shall be fully negotiable instruments, and all bonds and notes are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and all other political corporations or subdivisions of the State of Texas; and the bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, and all other political corporations or subdivisions of the State of Texas; and the bonds and notes shall be lawful and sufficient security for those deposits to the extent of their par value when accompanied by all unmatured coupons appurtenant to them. (V.A.C.S. Art. 2909d, Sec. 4.)

§ 66.25. Tax Exempt

The carrying out of the purposes of the constitutional provisions and of this subchapter will be performing an essential public function under the constitution, and all bonds and notes, whether original or refunding, heretofore or hereafter issued pursuant to the constitutional provisions or this subchapter, and their transfer and the income from them, including the profits made on their sale, shall at all times be free from taxation of this state. (V.A.C.S. Art. 2909d, Sec. 5.)

[Sections 66.26 to 66.40 reserved for expansion]

SUBCHAPTER C. MANAGEMENT OF UNIVERSITY LANDS

§ 66.41. Management of University Lands

The board of regents of The University of Texas System has the sole and exclusive management and control of the lands set aside and appro-

priated to, or acquired by, the permanent university fund. The board may sell, lease, and otherwise manage, control, and use the lands in any manner and at prices and under terms and conditions the board deems best for the interest of the permanent university fund, not in conflict with the constitution. However, the land shall not be sold at a price less per acre than that at which the same class of other public land may be sold under the statutes. No grazing lease shall be made for a period of more than 10 years. (R.S. Art. 2596; V.A.C.S. Art. 2592a, Sec. 1; Art. 2603b—1.)

§ 66.42. Duty of Land Commissioner

The commissioner of the general land office shall:

(1) furnish to the board of regents complete and accurate maps and all other data necessary to show the location and condition of every tract of the university lands;

(2) furnish to the board any additional information it may require; and

(3) render to the board any possible assistance it may request in the discharge of its duties under this chapter. (R.S. Art. 2598.)

§ 66.43. University Lands: Surveys; Personnel

(a) The board of regents shall cause to be done such surveying or re-surveying of the blocks and subdivisions of the university lands as may be necessary to enable the lines of the blocks and sections and fractional sections to be determined and identified and have such corners as may be necessary to that end permanently marked. When it is impracticable to establish such lines and corners as originally surveyed, or when such sections have not been actually surveyed on the ground, the blocks shall be surveyed or resurveyed and divided into surveys of sections and fractional sections, and as many corners thereof as may be necessary for the identification shall be permanently marked. The surveyors to do such surveying shall be employed by the board. The field notes of such surveys shall be returned to the general land office, and when correct and in accordance with law shall be approved by the commissioner of the general land office, filed in the general land office, and become archives therein.

(b) The board of regents may employ and compensate personnel the board deems necessary in connection with performance of any duties under this section or under Subchapter D of this chapter. (V.A.C.S. Art. 2603b, Secs. 1, 3 (part).)

§ 66.44. Management of Minerals Other Than Oil and Gas

The board of regents has the sole and exclusive management and control of all minerals, other than oil and gas, in lands set aside and appropriated to, or acquired by the permanent university fund. The board may sell, lease, and otherwise manage and control the minerals, other than oil and gas, in those lands as may seem best to it for the interests of the permanent university fund. The board may also explore and have explored and developed the minerals and may make any contract or contracts with any person, association of persons, firm, or corporation for the exploration, development, mining, production, disposition, and sale of the minerals in those lands. (R.S. Art. 2597.)

[Sections 66.45 to 66.60 reserved for expansion]

SUBCHAPTER D. BOARD FOR LEASE OF UNIVERSITY LANDS

§ 66.61. Definition

As used in this subchapter, "board" means the Board for Lease of University Lands. (V.A.C.S. Art. 2603a, Sec. 1 (part).)

§ 66.62. Board for Lease

(a) The Board for Lease of University Lands is composed of the commissioner of the general land office and two members of the board of regents selected by the board of regents.

(b) Neither regent member may be directly or indirectly employed by, or be an officer of or an attorney for, an oil or gas company.

(c) A majority of the board has the power to act for the board.

(d) The board shall perform the duties prescribed by this subchapter and shall keep a public record of all its proceedings. (V.A.C.S. Art. 2603a, Sec. 1 (part); Sec. 18 (part).)

§ 66.63. Oil and Gas Subject to Sale

The oil and gas in the university lands are subject to sale under the regulations, at the times, and on the terms provided in this subchapter, and under the rules and regulations adopted by the board as authorized by this subchapter, not inconsistent with the provisions of this subchapter. (V.A.C.S. Art. 2603a, Sec. 3.)

§ 66.64. Placing Oil and Gas on Market; Public Auction; Advertisement

(a) Whenever there is a demand for the purchase of oil and gas in any university land that will reasonably insure that the oil and gas may be sold advantageously, the board shall place the oil and gas in the land on the market in separate tracts of such area and extent as the board may determine most suitable for profitable marketing; but in no event shall any tract in which oil and gas is offered for as a unit exceed an area of 6,000 acres.

(b) The sale of the oil and gas shall be made at public auction held in Austin at any hour between 10 a. m. and 5 p. m.

(c) The board shall cause an advertisement to be made of the sale in two or more newspapers of general circulation in this state. The advertisement shall state the method, time, and place of sale; the primary term of the lease proposed to be executed covering any sale; the royalty to be paid; that lists describing the land to be sold may be obtained from the board; and other matters that in the judgment of the board are deemed advisable. In addition to the foregoing mandatory provisions, the board may cause the advertisement to be placed in oil and gas journals in and out of the state and to be mailed generally to persons it thinks might be interested. (V.A.C.S. Art. 2603a, Sec. 4.)

§ 66.65. Royalty; Bonus; Annual Rental; Special Fee

(a) The oil and gas in each tract shall be offered for sale for a bonus in addition to the stipulated royalty. Each tract shall be offered separately.

(b) Each bid is subject to the royalty specified in the official advertisement preceding the sale, but in no event less than one-eighth of the gross production of oil and gas in the land; and shall further be subject to the payment of an annual rental after the first year of not less than 10 cents per acre, payable each year in advance, unless the royalties received from the land during the preceding year equal or exceed the amount of the annual rental payment.

(c) Each bid is also subject to the payment of a special fee equal to one percent of the total sum bid, which special payment shall constitute a special fund from which the board for lease shall defray the expenses of the sale, including the payment for the services of the auctioneer crying the sale and the payment of the general operating expenses in geologizing, oil field supervision, and auditing oil and gas production of universi-

ty lands, including salaries and traveling expenses of persons employed by the board of regents for those purposes, and for the purpose of acquiring, constructing, and equipping a building in the city of Midland or adjacent area to house the administrative staff of the offices of University Lands, Geology and Land Agent, and such other related agencies necessary for the management and development of university lands in West Texas.

(d) The board for lease may also direct the comptroller of The University of Texas System to transmit to the state treasurer for deposit to the credit of the permanent university fund any unexpended balances remaining in the special fund after reserving a sufficient amount in it for the payment of current expenses as set out in Subsection (c) of this section.

(e) The highest successful bidder shall pay to the commissioner of the general land office on the day the bid is accepted the full amount of bonus bid and the special fee. (V.A.C.S. Art. 2603a, Sec. 5.)

§ 66.66. Withdrawal of Lands Before Bids Received

The board may withdraw any lands advertised for lease before the hour set for receiving bids. (V.A.C.S. Art. 2603a, Sec. 18 (part).)

§ 66.67. Award of Lease

(a) If any one of the bidders at the sale at public auction has offered a reasonable and proper price for any tract offered, not less than the price fixed by the board, the land advertised may be leased for oil and gas purposes under the terms of this subchapter and any regulations the board may prescribe, not inconsistent with the provisions of this subchapter. All bids may be rejected by the board.

(b) If the board determines that a satisfactory bid has been offered for the oil and gas, it shall make an award to the bidder offering the highest price, and a lease shall be executed by the commissioner of the general land office. A duplicate copy of the lease shall be filed in the general land office. (V.A.C.S. Art. 2603a, Secs. 7, 8(a).)

§ 66.68. Provisions of Lease

(a) Each lease executed under this subchapter shall contain, and each valid and subsisting oil and gas lease previously executed by the commissioner under the source statute for this subchapter, on the application of the lessee and payment of a sum of money equal to one year's annual rental under the lease, shall be amended by written instrument to contain, the provisions prescribed by this section.

(b) Each lease shall provide that the primary term of the lease, as determined by the board prior to the promulgation of the advertisement, shall in no case exceed five years.

(c) Each lease shall provide that if oil and/or gas is being produced in paying quantities from the leased premises before the termination of the primary term, such lease shall not terminate but shall continue in force and effect as long as oil and/or gas is being so produced.

(d) Each lease shall provide that in the event production of oil or gas on the leased premises, after once obtained, shall cease for any cause within 60 days before the expiration of the primary term of such lease or at any time or times thereafter, such lease shall not terminate, if the lessee commences additional drilling or reworking operations within 60 days thereafter, and such lease shall remain in full force and effect so long as such operations continue in good faith and in workmanlike manner, without interruptions, totaling more than 60 days during any one such operation; and if such drilling or reworking operations result in the production of oil and/or gas, such lease shall remain in full force and effect so long as oil or gas is produced therefrom in paying quantities or payment

of shut-in gas well royalty or compensatory royalties is made as hereinafter provided in this subchapter.

(e) Each lease shall provide that if at the expiration of the primary term or at any time thereafter there is located on the leased premises a well or wells capable of producing gas in paying quantities and such gas is not produced for lack of a suitable market and such lease is not being otherwise maintained in force and effect, the lessee may pay as royalty \$1,200 per annum for each well on the lease capable of producing gas in paying quantities, such payment to be made to the commissioner of the general land office at Austin, Texas, prior to the expiration of the primary term of the lease, or if the primary term has expired, within 60 days after lessee ceases to produce gas from such well or wells; and if such payment is made, the lease shall be considered to be a producing lease and such shut-in gas well royalty payment shall extend the term of the lease for a period of one year from the end of the primary term or from the first day of the month next succeeding the month in which production ceased; and thereafter if no suitable market for such gas exists, the lessee may extend the lease for two additional and successive periods of one year each by the payment of a like sum of money each year on or before the expiration of the extended term. Provided, however, that if, while such lease is being maintained in force and effect by payment of such shut-in gas well royalty, gas should be sold and delivered in paying quantities from a well situated within 1,000 feet of the leased premises and completed in the same producing reservoir or in any case where drainage is occurring, the right to further extend the lease by such shut-in gas well royalty payments shall cease, but such lease shall remain in force and effect for the remainder of the current one year period for which the shut-in gas well royalty has been paid, and for an additional period not to exceed a combined total of three years from the expiration of the primary term or from the first day of the month next succeeding the month in which production ceased by the payment by the lessee of compensatory royalty, at the royalty rate provided for in such university lease as would be due on an equivalent amount of like quality gas produced and delivered from the well completed in the same producing reservoir from which gas is being sold and delivered and which is situated within 1,000 feet of, or draining, the leased premises on which shut-in gas well is situated, such compensatory royalty to be paid monthly to the Commissioner of the General Land Office at Austin, Texas, beginning on or before the last day of the month next succeeding the month in which such gas is sold and delivered from the well situated within 1,000 feet of, or draining, the leased premises and completed in the same producing reservoir; provided further, that in the event such compensatory royalties paid in any 12-month period are in a sum less than the annual shut-in gas well royalties provided for in this section, the lessee shall pay an additional sum equal to the difference within 30 days from the end of such 12-month period; provided further, that nothing herein shall relieve the lessee of the obligation of reasonable development, nor of the obligation to drill offset wells required by Section 66.75 of this code.

(f) Each lease shall provide that if, at the expiration of the primary term, production of oil and/or gas has not been obtained in paying quantities on the leased premises but drilling operations are being conducted thereon in good faith and in good and workmanlike manner, the lessee may, on or before the expiration of the primary term, file in the general land office written application to the commissioner for a 30-day extension of such lease, such application to be accompanied by a payment of \$7.50 per acre for each acre in the lease, and the commissioner shall, in writing, extend such lease for a 30-day period from and after the expiration of the primary term and so long thereafter as oil or gas is produced in paying quantities from the premises; provided further, that the lessee

may, so long as such drilling operations are being conducted in good faith, make like application and payment during any 30-day extended period for an additional extension of 30 days not to exceed a combined total of 180 days; provided, however, lessee may, so long as such drilling operations are being conducted in good faith, make written application to the commissioner, on or before the expiration of the initial extended period of 180 days for an additional extension of 180 days, such application to be accompanied by a payment of \$50 per acre for each acre in the lease, and the commissioner shall, in writing, extend such lease for an additional 180-day period from and after the expiration of the initial extended period of 180 days, and so long thereafter as oil or gas is produced in paying quantities from the premises; provided, that no lease shall be extended under the provisions of this section for more than a total of 360 days from and after the expiration of the primary term unless production in paying quantities has been obtained. (V.A.C.S. Art. 2603a, Sec. 8(b)—1.)

§ 66.69. Lease: Additional Provisions

Each oil and gas lease issued on university lands under this subchapter shall include any additional provisions and regulations, not inconsistent with the provisions of this subchapter, that the board may prescribe to preserve the interest of the state and safeguard the university funds. (V.A.C.S. Art. 2603a, Sec. 8(b)—2.)

§ 66.70. Compensatory Royalties in Lieu of Offset Wells

(a) Subject to the provisions of this section, the commissioner of the general land office may execute agreements on behalf of the permanent university fund that provide for the payment by university land oil and gas lessees of compensatory royalty in lieu of drilling offset wells that may be required to protect a university oil and gas lease from drainage from a well or wells located on non-university lands or university lands leased at a lesser royalty situated within 1,000 feet of or draining the university-leased premises.

(b) Agreements providing for the payment of compensatory royalty must be approved by the board for lease of university lands.

(c) Any such agreement must be found by the commissioner and the board for lease to be in the best interest of the state and necessary to prevent economic waste.

(d) Nothing in an agreement shall relieve the lessee of the obligation of reasonable development or of the obligation to drill offset wells as required by Section 66.75 of this code as to other producing horizons.

(e) Beginning on the date fixed in the agreement, the lessee shall pay the compensatory royalty monthly to the commissioner at the land office in Austin.

(f) The agreement with respect to the interest of the state shall remain in force and effect as long as oil and gas, or either of them, is produced from a well located on university or non-university acreage and draining the university-leased premises.

(g) The agreement may contain other provisions the commissioner and the board for lease deem necessary to protect the interests of the permanent university fund. (V.A.C.S. Art. 2603a—1.)

§ 66.71. Prorated or Reduced Production Contracts

Whenever in the discretion of the board it is to the best interest of the university and its permanent fund that production from any lease for a limited period of time should be prorated or reduced, the board may execute the necessary contract or contracts with the lessee or lessees and their assignees to effectuate the same and to carry out the intention of this subchapter. (V.A.C.S. Art. 2603a, Sec. 8(c).)

§ 66.72. Extension of Producing Lease

If oil or gas is discovered in paying quantities on any tract covered by a lease, then the lease as to that tract shall remain in force as long as oil and gas is produced in paying quantities from the tract, provided that the other provisions of this subchapter are complied with by the lessee. (V. A.C.S. Art. 2603a, Sec. 9.)

§ 66.73. Assignment; Relinquishment

(a) All rights purchased may be assigned in quantities of not less than 40 acres, unless there are less than 40 acres remaining out of the tract originally leased under this subchapter, in which case the lesser area may be assigned. All assignments shall be filed in the general land office within 100 days after the date of the first acknowledgment thereof, accompanied by 10 cents an acre for each acre assigned; and if not so filed and payment made, the assignment shall be ineffective.

(b) All rights to any entire lease and to any assigned portion thereof may be relinquished to the state at any time by having an instrument of relinquishment recorded in the county or counties in which the area may be situated and filed in the land office accompanied by \$1 for each area assigned; but such assignment shall not release the owners of any past due obligations theretofore accrued thereon. (V.A.C.S. Art. 2603a, Sec. 10.)

§ 66.74. Royalty Payments; Inspection of Records

(a) Royalty as stipulated in the sale shall be paid to the general land office at Austin for the benefit of the university permanent fund on or before the last day of each month for the preceding month during the life of the rights purchased; and it shall be accompanied by the sworn statement of the owner, manager, or other authorized agent showing the gross amount of oil produced and saved since the last report, the amount of gas produced and sold off the premises, and the market value of the oil and gas, together with a copy of gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks, or pools and gas lines or gas storage.

(b) The books and accounts, receipt and discharges of all wells, tanks, pools, meters, pipelines, and all contracts and other records pertaining to the production, transportation, sale, and marketing of the oil and gas shall at all times be subject to inspection and examination by the commissioner of the general land office, the attorney general, the governor, or any member of the board of regents, or the representative of either. (V. A.C.S. Art. 2603a, Sec. 11.)

§ 66.75. Protection from Drainage

In every case where the area in which the oil and gas sold shall be contiguous or adjacent to land not university land, the acceptance of the bid and the sale made thereby shall constitute an obligation on the lessee to adequately protect the land leased from drainage from adjacent lands. In cases where the area in which the oil and gas is sold is contiguous to other university lands leased or sold, at a lesser royalty, the lessee shall likewise protect the state from drainage from the land so leased or sold for a lesser royalty. On failure to protect the land from drainage, the sale and all rights thereunder may be forfeited by the board in the manner provided in this subchapter for forfeitures. (V.A.C.S. Art. 2603a, Sec. 12.)

§ 66.76. Forfeiture; Other Remedies; Lien

(a) If the owner of the rights acquired under this subchapter fails or refuses to make the payment of any sum due thereon, either as rental or

royalty on the production, within 30 days after same becomes due, or if the owner or his authorized agent makes any false return or false report concerning production, royalty, or drilling, or if the owner fails or refuses to drill any offset well or wells in good faith, as required by his lease, or if the owner or his agent refuses the proper authority to access to the records and other data pertaining to the operations under this subchapter, or if the owner or his authorized agent fails or refuses to give correct information to the proper authorities, or fails or refuses to furnish the log of any well within 30 days after production is found in paying quantities, or if any of the material terms of the lease are violated, the lease is subject to forfeiture by the board by an order entered upon the minutes of the board reciting the facts constituting the default and declaring the forfeiture.

(b) The board may have suit instituted for forfeiture through the attorney general.

(c) On proper showing by the forfeiting owner, within 30 days after the declaration of forfeiture, the lease may, at the discretion of the board and on such terms as it may prescribe, be reinstated.

(d) In case of violation by the owner of the lease contract, the remedy of the state by forfeiture is not the exclusive remedy, but suit for damages or specific performance, or both, may be instituted.

(e) The state shall have a first lien upon all oil and gas produced upon the leased area and upon all rigs, tanks, pipeline, telephone lines, and machinery and appliances used in the production and handling of oil and gas produced thereon, to secure any amount due from the owner of the lease. (V.A.C.S. Art. 2603a, Sec. 13.)

§ 66.77. Filing of Records

All surveys, files, records, copies of sale and lease contracts, and all other records pertaining to the sales and leases hereby authorized, shall be filed in the general land office and constitute archives thereof. (V.A.C.S. Art. 2603a, Sec. 14 (part).)

§ 66.78. Payments; Disposition

Payments under this subchapter shall be made to the commissioner of the general land office at Austin, who shall:

(1) transmit to the state treasurer for deposit to the credit of the permanent university fund all bonus and royalty payments;

(2) transmit to the state treasurer for deposit to the credit of the available university fund all payments for delay in drilling, all filing, assignment, and relinquishment fees, and all other payments except those described in Subdivision (3) of this section; and

(3) transmit to the comptroller of The University of Texas System the special one percent fee payment prescribed by Section 66.65(c) of this code, which shall be disbursed by the comptroller for the authorized purposes after approval thereof by the board. (V.A.C.S. Art. 2603a, Sec. 14 (part).)

§ 66.79. Forms; Contracts; Regulations

The board shall adopt forms and contracts and shall promulgate rules and regulations, not inconsistent with the terms of this subchapter, that in its judgment will best effectuate the purpose of this subchapter and will best protect the university, its lands, and the income from the lands. (V.A.C.S. Art. 2603a, Sec. 18 (part).)

§ 66.80. Expenses of Executing this Subchapter

The expenses of executing the provisions of this subchapter shall be paid monthly by warrants drawn by the comptroller on the state treasury. (V.A.C.S. Art. 2603a, Sec. 16.)

CHAPTER 67. THE UNIVERSITY OF TEXAS AT AUSTIN**SUBCHAPTER A. GENERAL PROVISIONS****Section**

67.01. Definitions.

67.02. The University of Texas at Austin.

[Sections 67.03 to 67.20 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

67.21. Special Fees.

67.22. Military Training.

67.23. Texas Memorial Museum.

67.24. Research and Experimentation for Highway Department.

[Sections 67.25 to 67.50 reserved for expansion]

**SUBCHAPTER C. THE UNIVERSITY OF TEXAS McDONALD
OBSERVATORY AT MOUNT LOCKE**

67.51. Unit of University.

67.52. Programs.

[Sections 67.53 to 67.60 reserved for expansion]

**SUBCHAPTER D. THE UNIVERSITY OF TEXAS MARINE
SCIENCE INSTITUTE AT PORT ARANSAS**

67.61. Unit of University.

67.62. Programs, Courses, Facilities.

SUBCHAPTER A. GENERAL PROVISIONS**Section 67.01. Definitions**

In this chapter:

(1) "University" means The University of Texas at Austin.

(2) "Board" means the board of regents of The University of Texas System. (New.)

§ 67.02. The University of Texas at Austin

The University of Texas at Austin is a coeducational institution of higher education within the University of Texas System. It is under the management and control of the board of regents of The University of Texas System. (V.A.C.S. Art. 2585c, Sec. 2(a).)

[Sections 67.03 to 67.20 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD**§ 67.21. Special Fees**

(a) The board may levy and collect special fees from each student as a prerequisite to registration in the university as provided by this section.

(b) The board may levy and collect from each student a compulsory group hospitalization fee of \$4 for each regular semester and \$2 for each term of each summer session.

(c) The board may levy and collect from each student a compulsory fee for operating, maintaining, improving, equipping, and/or constructing additions to the existing Texas Union building near Guadalupe Street, of not to exceed \$10 for each regular semester and \$5 for each term of each summer session, with such fees to be deposited to an account known as the Texas Union Fee Account. The activities of said Texas Union building financed in whole or in part by this fee shall be limited to those activities in which the entire student body is eligible to participate, and in no event shall any of the activities so financed be held outside of the territorial limits of the campus of The University of Texas at Austin.

(d) The fees thus collected and placed in the Texas Union Fee Account shall be placed under the control of and subject to the order of the board of directors of the Texas Union building, which board shall annually submit a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The board of regents shall make such changes in the budget as it deems necessary before approving the same, and shall then levy the fees in such amounts as will be sufficient to meet the budgetary needs of said Texas Union building, within the limits herein fixed.

(e) The power and authority conferred by this section does not and shall not constitute in any way a limitation or restriction upon the power and authority of the board of regents under Chapter 55 of this code. (V.A.C.S. Arts. 2589c, 2589d, 2589e.)

§ 67.22. Military Training

No student of the university shall ever be required to take a military training course as a condition for entrance into the university or for graduation from the university. (V.A.C.S. Art. 2585a.)

§ 67.23. Texas Memorial Museum

The board has the management and control of the Texas Memorial Museum. It shall be maintained as a museum and shall be an integral part of The University of Texas at Austin. (V.A.C.S. Art. 2589f.)

§ 67.24. Research and Experimentation for Highway Department

The state comptroller of public accounts may draw proper warrants in favor of the university based on vouchers or claims submitted by the university through the State Highway Department covering reasonable fees and charges for services rendered by members of the staff of the university system to the State Highway Department and for equipment and materials necessary for research and experimentation in all phases of highway activity, economics, materials, specifications, design of roadways, construction, maintenance, pavement and structures, drainage, traffic control, safety, the economics of highway design and construction, and other fields of highway design, construction, maintenance, or operation, based on an agreement between the State Highway Department and the university in accordance with the provisions of Texas Highway Department Minute Order Number 52742, dated May 24, 1963; and the state treasurer shall pay warrants so issued against any funds appropriated by the legislature to the State Highway Department for the construction and maintenance of highways, roads, and bridges. The payments made to the university shall be credited and deposited to local institutional funds under its control. (Acts 59th Legis., Ch. 78.)

[Sections 67.25 to 67.50 reserved for expansion]

**SUBCHAPTER C. THE UNIVERSITY OF TEXAS McDONALD
OBSERVATORY AT MOUNT LOCKE**

§ 67.51. Unit of University

The University of Texas McDonald Observatory at Mount Locke is a part of and under the direction and control of The University of Texas at Austin. (V.A.C.S. Art. 2585c, Sec. 2(b); Art. 2585d, Sec. 3(a) (part).)

§ 67.52. Programs

The observatory shall conduct basic research in astronomy, along with optical and radio astronomy research, toward the establishment of a highly developed astronomy and space-science program, including the acquisition and support of the technical and maintenance staffs and facilities essential to the operation of an observatory of the first class, and may assist in the conduct of a comprehensive instructional program in astronomy and space science. (Sec. 4, H.B.No.474, 62nd Legis., Reg. Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3361, ch. 1024, Art. 2, § 40, eff. Sept. 1, 1971.

[Sections 67.53 to 67.60 reserved for expansion]

**SUBCHAPTER D. THE UNIVERSITY OF TEXAS MARINE
SCIENCE INSTITUTE AT PORT ARANSAS**

§ 67.61. Unit of University

The University of Texas Marine Science Institute at Port Aransas is a part of and under the direction and control of The University of Texas at Austin. (V.A.C.S. Art. 2585c, Sec. 2(c); Art. 2585d, Sec. 3(a) (part).)

§ 67.62. Programs, Courses, Facilities

The institute shall conduct a comprehensive instructional program in marine science, resources, and engineering at the graduate level and offer undergraduate courses for those students interested in the marine environment, and perform basic and applied research as a coastal zone laboratory in the coastal marine environment; and may provide a shore-based facility, including, but not limited to, laboratories, boats, classrooms, dormitories, and a cafeteria for faculty and students who are engaged in studies of the marine environment. (Sec. 3, H.B.No.474, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3361, ch. 1024, Art. 2, § 39, eff. Sept. 1, 1971.

**CHAPTER 68. THE UNIVERSITY OF TEXAS
AT ARLINGTON**

SUBCHAPTER A. GENERAL PROVISIONS

Section

68.01. Definitions.

68.02. The University of Texas at Arlington.

68.03. Buildings.

68.03. Role and Scope; Courses and Degrees.

SUBCHAPTER A. GENERAL PROVISIONS

Section 68.01. Definitions

In this chapter:

(1) "University" means The University of Texas at Arlington.

(2) "Board" means the board of regents of The University of Texas System. (New.)

§ 68.02. **The University of Texas at Arlington**

The University of Texas at Arlington is a four-year and graduate-level coeducational institution of higher education within The University of Texas System. It is under the management and control of the board of regents of The University of Texas System. (R.S. Art. 2620; V.A.C.S. Art. 2620a, Secs. 2 (part), 3; Art. 2621a, Sec. 1; Art. 2585c, Sec. 2(h).)

§ 68.03. **Buildings**

Text as added by Acts 1971, 62nd Leg., p. 3162, ch. 1024, Art. 1, § 1

It is the intent of the legislature that future building needs of The University of Texas at Arlington shall be financed from some source or sources other than The University of Texas' share of the principal and/or interest of and from the Permanent University Fund. (V.A.C.S. Art. 2620a, Sec. 2 (part).)

For text as added by Acts 1971, 62nd Leg., p. 3360, ch. 1024, Art. 2, § 38, see § 68.03, post.

§ 68.03. **Role and Scope; Courses and Degrees**

Text as added by Acts 1971, 62nd Leg., p. 3360, ch. 1024, Art. 2, § 38

The board is authorized to maintain, operate, and administer The University of Texas at Arlington as a general academic institution of higher education offering a standard four-year undergraduate program. The board shall have the authority to prescribe courses leading to such customary degrees as are offered at leading American universities and to award such degrees. It is the intent of the legislature that such degrees shall include baccalaureate, master's, and doctoral degrees and their equivalents; but no department, school, or degree program shall be instituted except with the prior approval of the Coordinating Board, Texas College and University System. (Sec. 2, H.B.No.474, 62nd Legis., Reg. Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3360, ch. 1024, Art. 2, § 38, eff. Sept. 1, 1971.

For text as added by Acts 1971, 62nd Leg., p. 3162, ch. 1024, Art. 1, § 1, see § 68.03, ante.

CHAPTER 69. THE UNIVERSITY OF TEXAS AT EL PASO

SUBCHAPTER A. GENERAL PROVISIONS

Section

69.01. Definitions.

69.02. The University of Texas at El Paso.

[Sections 69.03 to 69.20 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

69.21. Acquisition of Land.

SUBCHAPTER A. GENERAL PROVISIONS

Section 69.01. Definitions

In this chapter:

(1) "University" means The University of Texas at El Paso.

(2) "Board" means the board of regents of The University of Texas System. (New.)

§ 69.02. The University of Texas at El Paso

The University of Texas at El Paso is a coeducational institution of higher education within The University of Texas System. It is under the management and control of the board of regents of The University of Texas System. (R.S. Art. 2633 (part); V.A.C.S. Art. 2633a; V.A.C.S. Art. 2585c, Sec. 2(i).)

[Sections 69.03 to 69.20 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD**§ 69.21. Acquisition of Land**

The board may acquire by purchase, exchange, or otherwise any tract or parcel of land in El Paso County that is contiguous or adjacent to the campus of the university when the board deems the land necessary for campus expansion. (V.A.C.S. Art. 2603b—3.)

CHAPTER 70. THE UNIVERSITY OF TEXAS AT DALLAS**Section**

- 70.01. University Authorized.
- 70.02. Location.
- 70.03. Courses and Degrees.
- 70.04. Rules and Regulations; Joint Appointments.
- 70.05. Programs at Other Universities.
- 70.06. Limitations on Enrollment.
- 70.07. Grants and Gifts.

Section 70.01. University Authorized

The Board of Regents of The University of Texas System shall establish and maintain a state-supported general academic institution of higher education to be known as The University of Texas at Dallas. (V.A.C.S. Art. 2606c—3.1, Sec. 1 (part).)

§ 70.02. Location

The board shall locate The University of Texas at Dallas on a site, to be selected in Dallas County, consisting of not less than 250 acres of land that shall be donated for that purpose without cost to the State of Texas. The site may extend into any county adjacent to Dallas County. (V.A.C.S. Art. 2606c—3.1, Sec. 1 (part).)

§ 70.03. Courses and Degrees

(a) The board may prescribe courses leading to customary degrees offered at leading American universities and may award those degrees. It is the intent of the legislature that those degrees include bachelor's, master's, and doctor's degrees, and their equivalents.

(b) No department, school, or degree program shall be instituted except with the prior approval of the Coordinating Board, Texas College and University System, or its successor.

(c) Initial programs and departments shall be limited to those which existed in the Southwest Center for Advanced Studies on September 1, 1969. Approval of these programs, their expansion, and initiation of other programs shall be recommended by the board of regents and approved by the coordinating board. (V.A.C.S. Art. 2606c—3.1, Sec. 2 (part).)

§ 70.04. Rules and Regulations; Joint Appointments

The board may adopt other rules and regulations for the operation, control, and management of the university that are necessary for the conduct of the university as one of the first class. The board is specifically authorized to make joint appointments in the university and in other institutions under its governance. The salary of any person who receives a joint appointment shall be apportioned to the appointing institutions on the basis of services rendered. (V.A.C.S. Art. 2606c—3.1, Sec. 2 (part).)

§ 70.05. Programs at Other Universities

It is the intent of the legislature that existing programs leading to undergraduate and graduate degrees at North Texas State University, Texas Woman's University, East Texas State University, and The University of Texas at Arlington shall never be placed at a disadvantage, curtailed, or restricted from orderly and proper expansion for any cause attributable to the establishment of, or the curricular objectives for, The University of Texas at Dallas; and that these universities shall not, as a result of the establishment of The University of Texas at Dallas, be handicapped in realizing their full potentials in quantity or quality for developing additional undergraduate and graduate programs which may from time to time be authorized by the coordinating board. (V.A.C.S. Art. 2606c—3.1, Sec. 3.)

§ 70.06. Limitations on Enrollment

(a) The board may not permit the enrollment of freshman or sophomore undergraduate students at any time.

(b) The board may not permit the enrollment of junior or senior undergraduate students prior to September 1, 1975.

(c) The board may provide for the enrollment of graduate students and the awarding of graduate degrees after September 1, 1969. (V.A.C.S. Art. 2606c—3.1, Sec. 4.)

§ 70.07. Grants and Gifts

The board may accept and administer, on terms and conditions satisfactory to it, grants or gifts of property, including real estate or money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of The University of Texas at Dallas, and in aid of the research and teaching at the university. The board may accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money for the use and benefit of the university. (V.A.C.S. Art. 2606c—3.1, Sec. 5.)

**CHAPTER 71. THE UNIVERSITY OF TEXAS AT
SAN ANTONIO****Section**

71.01. The University of Texas at San Antonio.

71.02. Organization and Control.

71.03. Courses and Degrees.

71.04. Other Rules and Regulations.

71.05. Joint Appointments.

71.06. Board may Accept Grants and Gifts.

Section 71.01. The University of Texas at San Antonio

The University of Texas at San Antonio is a coeducational institution of higher education in Bexar County. The site of the university shall be

on land selected by the board of regents and provided or donated for that purpose. (V.A.C.S. Art. 2606c—3, Sec. 1.)

§ 71.02. Organization and Control

The organization and control of The University of Texas at San Antonio is vested in the Board of Regents of The University of Texas System. (V.A.C.S. Art. 2606c—3, Sec. 2 (part).)

§ 71.03. Courses and Degrees

The board may prescribe courses leading to such customary degrees as are offered at leading American universities and may award those degrees. It is the intent of the legislature that those degrees include bachelor's, master's, and doctor's degrees and their equivalents, and that there be established a standard four-year undergraduate program; but no department, school, or degree program may be instituted except with the prior approval of the Coordinating Board, Texas College and University System. (V.A.C.S. Art. 2606c—3, Sec. 2 (part).)

§ 71.04. Other Rules and Regulations

The board shall make other rules and regulations for the operation, control, and management of the university, including the determination of the number of students that shall be admitted to any school, college, or degree-granting program, as may be necessary for the conduct of the university as one of the first class. (V.A.C.S. Art. 2606c—3, Sec. 2 (part).)

§ 71.05. Joint Appointments

The board is specifically authorized to make joint appointments in the university and in other institutions under its governance. The salary of any such person who receives a joint appointment shall be apportioned to the appointing institutions on the basis of services rendered. (V.A.C.S. Art. 2606c—3, Sec. 2 (part).)

§ 71.06. Board may Accept Grants and Gifts

The board may accept and administer, on terms and conditions satisfactory to it, grants or gifts of property, including real estate or money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of The University of Texas at San Antonio, and in aid of research and teaching at the university. The board may accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money for the use and benefit of the university. (V.A.C.S. Art. 2606c—3, Sec. 3.)

CHAPTER 72. THE UNIVERSITY OF TEXAS OF THE PERMIAN BASIN

Section

- 72.01. Establishment.
- 72.02. Courses and Degrees.
- 72.03. Other Rules and Regulations.
- 72.04. Joint Appointments.
- 72.05. Board may Accept Grants and Gifts.
- 72.06. Location.

Section 72.01. Establishment

The Board of Regents of the University of Texas System shall establish and maintain a fully state-supported coeducational institution of higher

education to be known as The University of Texas of the Permian Basin. The institution shall be organized to accept only junior-, senior-, and graduate-level students, with at least 60 semester hours of accredited college or university study. (V.A.C.S. Art. 2606c—4, Sec. 1.)

§ 72.02. Courses and Degrees

The board of regents may prescribe courses leading to such customary degrees as are offered at leading American universities of this concept and may award those degrees. It is the intent of the legislature that those degrees include bachelor's and master's degrees and their equivalents, and that there be established a standard program for this type of institution, but no department, school, or degree program may be instituted except with the prior approval of the Coordinating Board, Texas College and University System. (V.A.C.S. Art. 2606c—4, Sec. 2 (part).)

§ 72.03. Other Rules and Regulations

The board of regents shall make other rules and regulations for the operation, control, and management of the university, including the determination of the number of students that shall be admitted to any school, college, or degree-granting program, as may be necessary for the conduct of the university as one of the first class. (V.A.C.S. Art. 2606c—4, Sec. 2 (part).)

§ 72.04. Joint Appointments

The board of regents is specifically authorized to make joint appointments in the university and in other institutions under its governance. The salary of any such person who receives a joint appointment shall be apportioned to the appointing institution on the basis of services rendered. (V.A.C.S. Art. 2606c—4, Sec. 2 (part).)

§ 72.05. Board may Accept Grants and Gifts

The board of regents may accept and administer, on terms and conditions satisfactory to it, grants or gifts of property, including real estate or money, or any part of existing junior college facilities that may be tendered to it in aid of the planning, establishment, conduct, and operation of The University of Texas of the Permian Basin, and in aid of research and teaching at the university. The board of regents may accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money for the use and benefit of the university. (V.A.C.S. Art. 2606c—4, Sec. 3.)

§ 72.06. Location

(a) The board of regents shall establish The University of Texas of the Permian Basin at a site consisting of at least 200 acres, unless otherwise specifically acceptable to the board.

(b) The site shall, within a reasonable length of time, be accessible to roads, and shall be accessible to required utilities at the perimeter of the site. The site shall be accessible to, and within a reasonable distance of, the present site of the Odessa College Campus in Odessa.

(c) The board shall select a site which is in Ector County; however, the site may extend into an adjoining county. If, within the discretion of the board, those sites made available within the provisions of this chapter are not suitable and other sites are suitable, then the board may accept and acquire a similar site wholly or partly in an adjoining county;

however, that site may not be outside a 12-mile radius from the present campus of Odessa College in Odessa.

(d) The board is authorized to accept and acquire and shall accept and acquire a site for such college within the provisions of this chapter and the land for the site shall be deeded by proper conveyance free and clear of debt, to the state.

(e) The board shall in no event delay the acquisition of land for the institution created by the provisions of this chapter later than December 31, 1969.

(f) The board must follow the provisions of this chapter with respect to site and any decision reached to the contrary shall be null and void and all laws to the contrary are hereby expressly repealed. (V.A.C.S. Art. 2606c—4, Sec. 4.)

CHAPTER 73. THE UNIVERSITY OF TEXAS AT HOUSTON

SUBCHAPTER A. GENERAL PROVISIONS

Section

73.001. Composition.

[Sections 73.002 to 73.050 reserved for expansion]

SUBCHAPTER B. THE UNIVERSITY OF TEXAS MEDICAL SCHOOL AT HOUSTON

73.051. Short Title.

73.052. Establishment; Scope.

73.053. Transfer of Division of Continuing Education.

73.054. Courses and Degrees; Rules and Regulations.

73.055. Affiliation Agreements; Joint Appointments.

73.056. Gifts and Grants.

73.057. Teaching Hospital.

[Sections 73.058 to 73.100 reserved for expansion]

SUBCHAPTER C. THE UNIVERSITY OF TEXAS M. D. ANDERSON HOSPITAL AND TUMOR INSTITUTE AT HOUSTON

73.101. Location.

73.102. Purpose.

73.103. President.

73.104. Medical Staff.

73.105. Diagnostic and Treatment Substations.

73.106. Patients.

73.107. Admission: Rules and Regulations; Approval of President.

73.108. Application.

73.109. Fee Schedule.

73.110. Gifts and Grants.

73.111. Acceptance of Land in Medical Center.

[Sections 73.112 to 73.150 reserved for expansion]

**SUBCHAPTER D. THE UNIVERSITY OF TEXAS GRADUATE
SCHOOL OF BIOMEDICAL SCIENCES AT HOUSTON****Section**

- 73.151. Dean.
- 73.152. Scope; Degree Programs; Rules and Regulations.
- 73.153. Gifts and Grants.
- 73.154. Research and Graduate Instruction; Joint Appointments.
- 73.155. Affiliation and Cooperation with other Units.
- 73.156. Division of Continuing Education.
- 73.157. Division of Communicative Disorders.

[Sections 73.158 to 73.200 reserved for expansion]

**SUBCHAPTER E. THE UNIVERSITY OF TEXAS SCHOOL OF
PUBLIC HEALTH AT HOUSTON**

- 73.201. Location.
- 73.202. Gifts and Donations.

[Sections 73.203 to 73.300 reserved for expansion]

**SUBCHAPTER F. THE UNIVERSITY OF TEXAS DENTAL
BRANCH AT HOUSTON**

- 73.301. Composition, Location.
- 73.302. Purpose.
- 73.303. Faculty.
- 73.304. Courses and Degrees; Rules and Regulations.
- 73.305. Gifts and Grants.

SUBCHAPTER A. GENERAL PROVISIONS**Section 73.001. Composition**

The University of Texas at Houston is composed of the following component institutions under the management and control of the board of regents of The University of Texas System:

- (1) The University of Texas Medical School at Houston;
 - (2) The University of Texas Dental Branch at Houston;
 - (3) The University of Texas M. D. Anderson Hospital and Tumor Institute at Houston;
 - (4) The University of Texas Graduate School of Biomedical Sciences at Houston;
 - (5) The University of Texas School of Public Health at Houston;
- and
- (6) other institutions and activities assigned to it from time to time. (V.A.C.S. Art. 2585d, Sec. 3(d).)

[Sections 73.002 to 73.050 reserved for expansion]

**SUBCHAPTER B. THE UNIVERSITY OF TEXAS MEDICAL
SCHOOL AT HOUSTON****§ 73.051. Short Title**

This subchapter may be cited as the Brooks-Bass Medical Training Act of 1969. (V.A.C.S. Art. 2606c—1.1, Sec. 1.)

§ 73.052. Establishment; Scope

The board of regents shall establish and maintain The University of Texas Medical School at Houston, a component institution of the university system located in Harris County. The board may provide for the training and teaching of medical students, medical technicians, and other technicians in the practice of medicine. (V.A.C.S. Art. 2606c—1.1, Sec. 2.)

§ 73.053. Transfer of Division of Continuing Education

The board may transfer the division of continuing education from The University of Texas Graduate School of Biomedical Sciences at Houston to The University of Texas Medical School at Houston. After the transfer, all appropriations, assets, funds, property, and equipment owned or held by the division of continuing education shall be owned, held, and controlled by The University of Texas Medical School at Houston. (V.A.C.S. Art. 2606c—1.1, Sec. 3.)

§ 73.054. Courses and Degrees; Rules and Regulations

The board may prescribe courses leading to customary degrees offered in other leading American medical schools, may award the degrees, and may make other rules and regulations for the operation, control, and management of the school, including the determination of the number of students that shall be admitted to any degree-granting program, that are necessary for the conduct of a professional school of the first class. (V.A.C.S. Art. 2606c—1.1, Sec. 5.)

§ 73.055. Affiliation Agreements; Joint Appointments

The board may execute and carry out with any entity or institution affiliation or coordinating agreements that are reasonably necessary or desirable for the conduct and operation of a professional school of the first class; and the board may make joint appointments in other institutions under its governance. The salary of any person who receives a joint appointment shall be apportioned to the appointing institutions on the basis of services rendered. (V.A.C.S. Art. 2606c—1.1, Sec. 6.)

§ 73.056. Gifts and Grants

The board may accept and administer, on terms and conditions satisfactory to it, grants or gifts of property, including real estate and money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of the school and in aid of research and teaching at the school. The board may accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money, for the use and benefit of the school. (V.A.C.S. Art. 2606c—1.1, Sec. 7.)

§ 73.057. Teaching Hospital

A complete teaching hospital for the school shall be furnished at no cost or expense to the state, and the state shall never contribute any funds for the construction, maintenance, or operation of a teaching hospital for the school. (V.A.C.S. Art. 2606c—1.1, Sec. 8.)

[Sections 73.058 to 73.100 reserved for expansion]

**SUBCHAPTER C. THE UNIVERSITY OF TEXAS M. D. ANDERSON
HOSPITAL AND TUMOR INSTITUTE AT HOUSTON****§ 73.101. Location**

The University of Texas M. D. Anderson Hospital and Tumor Institute at Houston is located in the Texas Medical Center in the city of Houston. (V.A.C.S. Art. 2603e, Sec. 1; Art. 2603f, Sec. 1 (part).)

§ 73.102. Purpose

The institution and its substations shall be devoted to the diagnosis, teaching, study, prevention, and treatment of neoplastic and allied diseases. (V.A.C.S. Art. 2603e, Sec. 5.)

§ 73.103. President

(a) The board of regents shall appoint a president of the institution.

(b) To be qualified for appointment as president, a person must be a licensed physician possessing an M.D. degree with at least five years of experience practicing medicine.

(c) The president has charge of the operation and conduct of the institution and has any other powers and duties conferred on him by the board. (V.A.C.S. Art. 2603e, Sec. 2.)

§ 73.104. Medical Staff

The medical staff of the institution shall be selected and employed by the board on the recommendation of the president, and may be discharged in like manner. (V.A.C.S. Art. 2603e, Sec. 3.)

§ 73.105. Diagnostic and Treatment Substations

The board may establish and maintain diagnostic and treatment substations as deemed expedient from time to time. The location, erection, operation, and management of the substations are under the control and direction of the board, subject to the other provisions of this subchapter. The substations and the main institution shall conform to the standards of the American College of Surgeons and the American Medical Association. (V.A.C.S. Art. 2603e, Sec. 4.)

§ 73.106. Patients

Except to the extent of any conflict with this subchapter, the provisions of Chapter 152, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 3196a, Vernon's Texas Civil Statutes), govern the admission of patients to the institution and its substations, the support of patients, and other matters relating to patients. (V.A.C.S. Art. 2603e, Sec. 6.)

§ 73.107. Admission: Rules and Regulations; Approval of President

(a) Admission to the institution and its substations is subject to rules and regulations promulgated from time to time by the president.

(b) No person shall be admitted until the president is satisfied that all requirements of this subchapter and the rules and regulations of the president have been met. (V.A.C.S. Art. 2603e, Secs. 7 (part), 9.)

§ 73.108. Application

(a) Admission is subject to the written application of the patient, the guardian of the patient, or some friend or relative of the patient.

(b) The written application shall be on forms prescribed by the president and shall include:

- (1) the patient's name, age, sex, and national origin;
- (2) the patient's residence address or addresses for at least the two-year period preceding the date of the application;
- (3) the patient's occupation, trade, profession, or employment;
- (4) the names and addresses of the patient's parents, children, brothers, sisters, and other responsible relatives, if any;
- (5) the names, addresses, and ages of any relatives who are or who may have been similarly afflicted;
- (6) a complete statement of the location, description, and value of any real or personal property owned, possessed, or held by the patient or his guardian;
- (7) the name of each person legally liable for the support of the patient and a statement of the location, description, and value of any real or personal property owned, possessed, or held by that person; and
- (8) any other information or statements that may be required by the president.

(c) Each application shall be accompanied by a written request for the patient's admission by his attending physician which includes:

- (1) a statement that he has adequately examined the patient and that the patient has, or is suspected of having, a neoplasm or allied disease;
- (2) a statement indicating the duration of the disease, if known, and indicating any accompanying bodily disorder or disorders the patient may have at the time of the application; and
- (3) any other information that may be required by the president. (V.A.C.S. Art. 2603e, Secs. 7 (part), 8.)

§ 73.109. Fee Schedule

The president shall establish a schedule of minimum fees and charges conforming to the fees and charges customarily made for similar services in the community in which the services are rendered. (V.A.C.S. Art. 2603e, Sec. 10.)

§ 73.110. Gifts and Grants

The board may accept gifts and grants of money from other than state sources for the benefit of the institution and its substations. (V.A.C.S. Art. 2603e, Sec. 12.)

§ 73.111. Acceptance of Land in Medical Center

The board may accept for and in behalf of the State of Texas title by proper conveyance or conveyances to any land located in the Texas Medical Center for the operation and maintenance of the program of the institution. (Art. 2603f, Sec. 1 (part).)

[Sections 73.112 to 73.150 reserved for expansion]

SUBCHAPTER D. THE UNIVERSITY OF TEXAS GRADUATE SCHOOL OF BIOMEDICAL SCIENCES AT HOUSTON

§ 73.151. Dean

(a) The University of Texas Graduate School of Biomedical Sciences at Houston is under the direction of a dean appointed by the board of regents.

(b) To be qualified for appointment as dean, a person must have a doctor of medicine degree or a doctor of philosophy degree in one of the biomedical sciences.

(c) The dean is responsible through the chancellor or other executive officer of the system to the board. (V.A.C.S. Art. 2603f—2, Sec. 1.)

§ 73.152. Scope; Degree Programs; Rules and Regulations

(a) The board of regents may prescribe courses and conduct graduate and postdoctoral programs at the master's and doctoral levels in the sciences and other academic areas directly related to medical education and research, but the board shall not operate this institution as a general academic graduate school. The degree programs to be offered by the graduate school are subject to approval by the Coordinating Board, Texas College and University System.

(b) The board of regents may make rules and regulations necessary for the operation, control, and management of the graduate school. (V.A.C.S. Art. 2603f—2, Sec. 2.)

§ 73.153. Gifts and Grants

The board may accept and administer grants and gifts from any source for the benefit of the graduate school. (V.A.C.S. Art. 2603f—2, Sec. 3.)

§ 73.154. Research and Graduate Instruction; Joint Appointments

(a) The board may expend funds appropriated by the legislature to the graduate school and grant, gift, and contract funds of the school in support of research and graduate instruction, within approved areas and programs, to be carried out either in its own facilities or in the facilities of other component units of The University of Texas at Houston.

(b) The board may make joint appointments in the graduate school and in one or more of the other component units of The University of Texas System. The salary of a person who is receiving a joint appointment shall be apportioned to the different units on the basis of services rendered. (V.A.C.S. Art. 2603f—2, Sec. 4.)

§ 73.155. Affiliation and Cooperation with other Units

The graduate school shall maintain the closest possible affiliation with the science programs at The University of Texas at Austin and with the other medical units of The University of Texas System. It shall cooperate with other institutions, private and public, in furtherance of research in the biomedical sciences and related fields. (V.A.C.S. Art. 2603f—2, Sec. 5.)

§ 73.156. Division of Continuing Education

The board may establish as a part of the graduate school a separate division of continuing education for physicians. (V.A.C.S. Art. 2603f—2, Sec. 6.)

§ 73.157. Division of Communicative Disorders

(a) The board may acquire by donation the facilities of the Houston Speech and Hearing Center, a Texas nonprofit corporation of Houston, all of which are located within the Texas Medical Center, including a leasehold interest in land. The board is further authorized to execute any and all agreements necessary to carry out the purpose and intent of this section.

(b) If and when such center is accepted, there shall be established within The University of Texas Graduate School of Biomedical Sciences at Houston a division which shall be known as the Division of Communicative Disorders for the purpose of observing, testing, analyzing, diagnosing, and treating those persons afflicted with hearing and speech abnormalities, defects, and afflictions, and as a center for research studies and training relating to speech and hearing afflictions, abnormalities, and defects, and for all programs incidental thereto. The facilities of the Division of Communicative Disorders shall be available to all persons and institutions, subject only to necessary limitations with respect to space, funding, and qualifications of such users.

(c) The board may accept gifts and grants from any source in aid of the conduct and operation of the Division of Communicative Disorders. (S.B.No.918, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3351, ch. 1024, Art. 2, § 26, eff. Sept. 1, 1971.

[Sections 73.158 to 73.200 reserved for expansion]

SUBCHAPTER E. THE UNIVERSITY OF TEXAS SCHOOL OF PUBLIC HEALTH AT HOUSTON

§ 73.201. Location

The University of Texas School of Public Health at Houston is located in the Texas Medical Center in the city of Houston. (V.A.C.S. Art. 2603f, Sec. 1 (part); Art. 2585c, Sec. 2(e).)

§ 73.202. Gifts and Donations

The board of regents may accept gifts and donations for the benefit of the school. (V.A.C.S. Art. 2603f, Sec. 2 (part).)

[Sections 73.203 to 73.300 reserved for expansion]

SUBCHAPTER F. THE UNIVERSITY OF TEXAS DENTAL BRANCH AT HOUSTON

§ 73.301. Composition, Location

The University of Texas Dental Branch at Houston is composed of The University of Texas Dental School at Houston, The University of Texas Dental Science Institute at Houston, The University of Texas School of Dental Hygiene at Houston, The University of Texas Postgraduate School of Dentistry at Houston, and other institutions and activities assigned to it from time to time. It is located in the Texas Medical Center. (V.A.C.S. Art. 2585c, Sec. 2(f) and (g); Art. 2585d, Sec. 3(c); Art. 2623b—1.)

§ 73.302. Purpose

The principal purpose of the dental school is to teach the subjects of dental education that will give a thorough knowledge of dentistry and related subjects and that meet the requirements of the Council on Dental Education, the American Association of Dental Schools, and other educational associations of similar standards concerned with dental education. (V.A.C.S. Art. 2623b—2.)

§ 73.303. Faculty

The board of regents shall appoint the faculty of the dental school. (V.A.C.S. Art. 2623b—3.)

§ 73.304. Courses and Degrees; Rules and Regulations

(a) The board may confer degrees and issue diplomas, and may fix a standard of grades for students.

(b) The dental school shall have regular courses leading to degrees and special courses deemed necessary by the board.

(c) The board may make other rules and regulations it deems necessary for the proper control and management of the dental school. (V.A.C.S. Art. 2623b—4.)

§ 73.305. Gifts and Grants

The board may accept gifts and grants from any source for the benefit of the dental branch. (V.A.C.S. Art. 2623b—6.)

**CHAPTER 74. OTHER MEDICAL, DENTAL, AND NURSING
UNITS OF THE UNIVERSITY OF TEXAS SYSTEM**

**SUBCHAPTER A. THE UNIVERSITY OF TEXAS MEDICAL
BRANCH AT GALVESTON**

Section

- 74.001. Composition.
- 74.002. Jennie Sealy Hospital; R. Waverly Smith Pavilion.
- 74.003. Land Acquisition.

[Sections 74.004 to 74.050 reserved for expansion]

**SUBCHAPTER B. MOODY STATE SCHOOL FOR
CEREBRAL PALSIED CHILDREN**

- 74.051. Moody State School for Cerebral Palsied Children.
- 74.052. Purpose of School.
- 74.053. Superintendent, Officers, Employees.
- 74.054. Rules and Regulations.
- 74.055. Persons who may be Admitted; Classification.
- 74.056. Private Students.
- 74.057. Preference as Between Applicants.
- 74.058. Application.
- 74.059. Certificate of Physician.
- 74.060. Duties of County Judge.
- 74.061. Expenses.
- 74.062. Support of Indigent Public Students.
- 74.063. Support of Non-Indigent Public Students; Reimbursement; Suit.

[Sections 74.064 to 74.100 reserved for expansion]

**SUBCHAPTER C. THE UNIVERSITY OF TEXAS SOUTHWESTERN
MEDICAL SCHOOL AT DALLAS**

- 74.101. Component Institution.
- 74.102. Courses and Degrees; Rules and Regulations.
- 74.103. Gifts and Grants.
- 74.104. Entering Classes.
- 74.105. Lease of Land for Hospital, Etc.

[Sections 74.106 to 74.150 reserved for expansion]

**SUBCHAPTER D. THE UNIVERSITY OF TEXAS MEDICAL
SCHOOL AT SAN ANTONIO**

Section

- 74.151. Component Institution.
- 74.152. Courses and Degrees; Rules and Regulations.
- 74.153. Gifts and Grants.
- 74.154. Teaching Hospital.

[Sections 74.155 to 74.200 reserved for expansion]

**SUBCHAPTER E. MEDICAL SCHOOL TO BE ESTABLISHED
AND LOCATED BY BOARD OF REGENTS**

- 74.201. Establishment and Location; Name; Scope.
- 74.202. Courses and Degrees; Rules and Regulations.
- 74.203. Affiliation Agreements; Joint Appointments.
- 74.204. Gifts and Grants.
- 74.205. Teaching Hospital.

[Sections 74.205 to 74.250 reserved for expansion]

**SUBCHAPTER F. THE UNIVERSITY OF TEXAS DENTAL
SCHOOL AT SAN ANTONIO**

- 74.251. Component Institution.
- 74.252. Training and Teaching.
- 74.253. Courses and Degrees; Rules and Regulations.
- 74.254. Affiliation Agreements; Joint Appointments.
- 74.255. Gifts and Grants.

[Sections 74.256 to 74.300 reserved for expansion]

**SUBCHAPTER G. THE UNIVERSITY OF TEXAS (CLINICAL)
NURSING SCHOOL AT SAN ANTONIO**

- 74.301. Establishment; Purpose.
- 74.302. Hospital Facilities and Services.
- 74.303. Courses and Degrees; Rules and Regulations.
- 74.304. Affiliation Agreements; Joint Appointments.
- 74.305. Gifts and Grants.
- 74.306. Liberal Arts Courses Pending Establishment.

[Sections 74.307 to 74.350 reserved for expansion]

**SUBCHAPTER H. THE UNIVERSITY OF TEXAS (UNDER-
GRADUATE) NURSING SCHOOL AT EL PASO**

- 74.351. Establishment; Purpose.
- 74.352. Hospital Facilities and Services.
- 74.353. Courses and Degrees; Rules and Regulations.
- 74.354. Affiliation Agreements; Joint Appointments.
- 74.355. Gifts and Grants.

[Sections 74.356 to 74.400 reserved for expansion]

**SUBCHAPTER I. THE UNIVERSITY OF TEXAS NURSING
SCHOOL (SYSTEM-WIDE)**

- 74.401. Composition, Operation, Maintenance.
- 74.402. Courses, Degrees, Etc.
- 74.403. Affiliation Agreements; Joint Appointments.
- 74.404. Gifts and Grants.

**SUBCHAPTER A. THE UNIVERSITY OF TEXAS MEDICAL
BRANCH AT GALVESTON****Section 74.001. Composition**

The University of Texas Medical Branch at Galveston is composed of the following component institutions under the control and management of the Board of Regents of The University of Texas System:

- (1) The University of Texas Medical School at Galveston, including:
 - (A) the Graduate School;
 - (B) the School of Allied Health Sciences; and
 - (C) the Marine Biomedical Institute;
- (2) The University of Texas Hospitals at Galveston, including:
 - (A) John Sealy Hospital;
 - (B) Children's Hospital;
 - (C) Marvin L. Graves Hospital;
 - (D) Randall Pavilion;
 - (E) Moody State School for Cerebral Palsied Children;
 - (F) R. Waverly Smith Pavilion;
 - (G) Jennie Sealy Hospital;
 - (H) John W. McCullough Outpatient Clinic;
 - (I) Rebecca Sealy Outpatient Facility; and
 - (J) Rosa and Henry Ziegler Hospital; and
- (3) other institutions that may be assigned to it from time to time.
(V.A.C.S. Art. 2585d, Sec. 3(b).)

§ 74.002. Jennie Sealy Hospital; R. Waverly Smith Pavilion

(a) The Jennie Sealy Hospital and the R. Waverly Smith Pavilion shall be operated by the medical branch as integral parts of its hospital operations, but without cost or expense to the medical branch or to the state for maintenance, operations, repairs, or otherwise.

(b) Title to those facilities shall remain in the name of the Sealy-Smith Foundation; and the property shall not be sold, granted, leased, or in any manner conveyed to the medical branch or to the university system.

(c) Except as otherwise provided in this section, the land on which Jennie Sealy Hospital is situated (Lots 11, 12, 13, and 14, Block 667, city of Galveston, Galveston County, Texas, conveyed to the Sealy-Smith Foundation by the board of regents) shall be used as the site of the Jennie Sealy Hospital, and in the event the land is not so utilized the title reverts to the board of regents.

(d) By agreement between the board of regents and the trustees of the Sealy-Smith Foundation, the purpose or use of these facilities may be changed to any other purpose or use consistent with the purposes of the foundation and with the operation of a medical school. However, no agreement shall be made which will impose on the medical branch or the state any obligation for maintenance, operation, repairs, or otherwise.
(V.A.C.S. Art. 2603h, Secs. 1-7.)

§ 74.003. Land Acquisition

The board may acquire by donation or deed of gift, for the use and benefit of the medical branch, any and all properties contiguous or adjacent, or both, to the campus of the medical branch when the lands are deemed necessary for campus expansion. (Acts 59th Legis., Ch. 71, Sec. 1.)

[Sections 74.004 to 74.050 reserved for expansion]

**SUBCHAPTER B. MOODY STATE SCHOOL FOR
CEREBRAL PALSIED CHILDREN**

§ 74.051. Moody State School for Cerebral Palsied Children

The Moody State School for Cerebral Palsied Children is under the management and control of the board of regents of The University of Texas System. (V.A.C.S. Art. 3254c, Sec. 1 (part); Art. 3254c—1; Art. 3254c—2.)

§ 74.052. Purpose of School

The purpose of the school is to provide for the diagnosis, care, and education of persons afflicted with cerebral palsy. (V.A.C.S. Art. 3254c, Sec. 2.)

§ 74.053. Superintendent, Officers, Employees

(a) The board of regents shall appoint a well-educated person as superintendent of the school and shall determine his salary and his duties. The board may remove him for reasons it deems sufficient.

(b) The superintendent may appoint and remove the subordinate officers and employees, the number and salaries of whom shall be fixed by the board.

(c) The superintendent is responsible to the board for the details of management of the school. He shall exercise the power conferred on him by law with the approval and consent of the board. (V.A.C.S. Art. 3254c, Sec. 3.)

§ 74.054. Rules and Regulations

The superintendent, with the approval of the board of regents, shall make the necessary rules and regulations for the government and management of the school. (V.A.C.S. Art. 3254c, Sec. 12.)

§ 74.055. Persons who may be Admitted; Classification

(a) A person afflicted with cerebral palsy who has been a citizen of this state and of the county from which he comes at the time of filing his application with the county judge as provided by this subchapter shall be admitted to the school.

(b) A "citizen of this state" is defined to be any person who has actually resided in the state with the bona fide intention of being a citizen of the state for a period of 12 months immediately preceding the date of the application.

(c) Students admitted to the school shall be classified as:

- (1) indigent public students;
- (2) non-indigent public students; and
- (3) private students.

(d) Indigent public students are those who possess no property of any kind and have no one legally liable for their support and able to reimburse the state.

(e) Non-indigent public students are those who possess some property out of which the state may be reimbursed or who have someone legally liable for their support and able to reimburse the state. (V.A.C.S. Art. 3254c, Sec. 4.)

§ 74.056. Private Students

(a) Private students may be admitted to the school on the application of a parent, guardian, or friend under regulations prescribed by the board and the superintendent not in conflict with the provisions of this subchapter.

(b) A private student shall be kept and maintained at the school at his own expense or at the expense of his parent, guardian, relative, or friend. For the board, care, and education of private students, the superintendent shall make a special contract at the rate set by the board of regents. At the time of admission of a private student, the agreed fee must be paid in advance for six months, and bond and security must be given for the prompt payment of all future expenses of the student.

(c) Payments under this section shall be made to the school, which shall give receipt for the payments and shall use them for the maintenance and improvement of the school. (V.A.C.S. Art. 3254c, Sec. 6.)

§ 74.057. Preference as Between Applicants

When application is made for more students than can be admitted, the superintendent shall give preference to indigent public students over non-indigent public students, and shall at all times give preference to both of those classes over private students. (V.A.C.S. Art. 3254c, Sec. 5.)

§ 74.058. Application

(a) The parent, guardian, or friend of a person for whom admission is sought may make application in writing and under oath to the county judge of the county where the person for whom admission is sought resides.

(b) The application shall state as to the person for whom admission is sought:

- (1) the name, age, sex, and national origin;
- (2) his occupation, trade, or employment;
- (3) his residence address or addresses for the three years immediately preceding the date of the application;
- (4) the name and address of any living parent or guardian;
- (5) the name and address of the husband or wife, if any;
- (6) the name, address, age, and sex of each child, if any;
- (7) a description and estimated value of any property interest;
- (8) the name and address of each person liable for his support, if any, and a description and estimated value of any property owned by that person; and
- (9) the name and address of any relative who is or was similarly afflicted, insane, inebriate, consumptive, or criminal. (V.A.C.S. Art. 3254c, Sec. 7.)

§ 74.059. Certificate of Physician

The application shall be accompanied by a certificate of a reputable practicing physician stating that he has carefully examined the person for whose admission application is made and that the person is afflicted with cerebral palsy. The certificate shall also show the present physical condition of the applicant and any special and other information that would be helpful to the superintendent in the care and education of the person. (V.A.C.S. Art. 3254c, Sec. 8.)

§ 74.060. Duties of County Judge

(a) The county judge shall certify that the physician making the certificate is a reputable physician actively engaged in the practice of his profession and has complied with the laws of this state granting license to physicians to practice medicine.

(b) If the judge is not satisfied as to the showing made in the application and certificate, or either, he may subpoena witnesses and examine them under oath as to those matters.

(c) If it appears to the county judge that the person is entitled to admission to the school, he shall forward an application to the superintendent.

ent of the school for admission of the person as an indigent or non-indigent student, as the judge determines on careful investigation. The application shall be accompanied with full copy of the proceedings had in the case, and the original shall be filed in the office of the county clerk.

(d) The county judge shall see that each student admitted to the school is supplied with three full suits of substantial clothing. (V.A.C.S. Art. 3254c, Sec. 9.)

§ 74.061. Expenses

The cost of the clothing and the transportation of an indigent public student and the expenses and compensation of the necessary escort shall be paid by the county from which the student is sent. Non-indigent public students shall pay for the clothing, transportation, and escort. In no case shall the escort be entitled to charge or receive more than \$2 a day and expenses actually necessary in going to and returning from the school. (V.A.C.S. Art. 3254c, Sec. 10.)

§ 74.062. Support of Indigent Public Students

Indigent public students shall be supported entirely at the expense of the state. (V.A.C.S. Art. 3254c, Sec. 11 (part).)

§ 74.063. Support of Non-Indigent Public Students; Reimbursement; Suit

(a) Each non-indigent public student shall be kept and maintained at the expense of the state in the first instance; but the state has the right to be reimbursed for the support of a non-indigent student, and the claim of the state for support constitutes a valid lien against any property of the student, or in case he has a guardian, against his estate, or against the person or persons who may be legally liable for his support and financially able to contribute to his support.

(b) The claim may be collected by suit or other proceedings in the name of this state by the county or district attorney of the county from which the student is sent, against the student, his guardian, or the person or persons liable for his support, as the case may be.

(c) The suit or proceeding shall be instituted on the written request of the superintendent, accompanied by his certificate as to the amount due the state, which shall in no case exceed the sum set by the board of regents. The certificate of the superintendent shall be sufficient evidence of the amount due the state for the support of the student.

(d) The county or district attorney shall institute and conduct the suit or proceedings, for which he is entitled to a commission of 10 percent of the amount collected. The county or district attorney shall pay all money so collected, less the commission, to the board of regents, which shall receive and give receipt for the payment and shall use the money for maintenance and improvement of the school. (V.A.C.S. Art. 3254c, Sec. 11 (part).)

[Sections 74.064 to 74.100 reserved for expansion]

**SUBCHAPTER C. THE UNIVERSITY OF TEXAS SOUTHWESTERN
MEDICAL SCHOOL AT DALLAS**

§ 74.101. Component Institution

The University of Texas Southwestern Medical School at Dallas is a component institution of The University of Texas System under the management and control of the board of regents of The University of Texas System. (V.A.C.S. Art. 2606b, Secs. 1, 1a, 3 (part).)

§ 74.102. Courses and Degrees; Rules and Regulations

The board of regents may prescribe courses leading to customary degrees and may make rules and regulations for the operation, control, and management of the medical school as may be necessary for its conduct as a medical school of the first class. (V.A.C.S. Art. 2606b, Sec. 2.)

§ 74.103. Gifts and Grants

The board may accept and administer, on terms and conditions satisfactory to it, grants and gifts tendered to it in aid of research and teaching at the medical school. The board may also accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, and leases, for the exclusive use and benefit of the medical school. Before acceptance of gifts, grants, and donations of real property, the board shall secure the opinion of the attorney general on the title of the real property to be conveyed. (V.A.C.S. Art. 2606b, Sec. 4 (part).)

§ 74.104. Entering Classes

The medical school shall admit at least 100 students in each entering class. (V.A.C.S. Art. 2606b, Sec. 5.)

§ 74.105. Lease of Land for Hospital, Etc.

(a) The board may lease to nonprofit charitable, scientific, or educational corporations organized under the laws of the State of Texas, or to any governmental agency or agencies, a tract or tracts of land situated in Dallas County out of land previously deeded by Southwestern Medical Foundation to the State of Texas.

(b) A lease under this section shall be on the terms, conditions, and provisions and for a period of years determined by the board. No lease shall be for a term of more than 99 years.

(c) A lease under this section shall be made only to a nonprofit corporation or governmental agency for the purpose of constructing, maintaining, and operating a hospital, hospitals, or public health centers and services; or for the purpose of constructing, maintaining, and operating dormitories and housing facilities for students attending the medical school or persons employed by and in institutions located on the property.

(d) In no event shall the State of Texas or The University of Texas System be liable, directly or indirectly, for any expense or cost in connection with the construction, operation, and maintenance of any building or other improvement placed on the leased premises by any lessee. (V.A.C.S. Art. 2603g.)

[Sections 74.106 to 74.150 reserved for expansion]

SUBCHAPTER D. THE UNIVERSITY OF TEXAS MEDICAL SCHOOL AT SAN ANTONIO**§ 74.151. Component Institution**

The University of Texas Medical School at San Antonio is a component institution of The University of Texas System under the management and control of the board of regents of The University of Texas System. (V.A.C.S. Art. 2585c, Sec. 2(d); Art. 2606c, Sec. 1 (part).)

§ 74.152. Courses and Degrees; Rules and Regulations

The board of regents may prescribe courses leading to customary degrees and may make rules and regulations for the operation, control, and

management of the medical school as may be necessary for its conduct as a medical school of the first class. (V.A.C.S. Art. 2606c, Sec. 2.)

§ 74.153. Gifts and Grants

The board may accept and administer, on terms and conditions satisfactory to it, grants and gifts tendered to it in aid of research and teaching at the medical school. The board may also accept from the federal government, any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, and money, for the exclusive use and benefit of the medical school. Before acceptance of gifts, grants, and donations of real property, the board shall secure the opinion of the attorney general on the title of the real property to be conveyed. (V.A.C.S. Art. 2606c, Sec. 3.)

§ 74.154. Teaching Hospital

A teaching hospital deemed suitable by the board shall be provided by the city or county within one mile of the campus of the medical school. It shall be maintained without cost to the state. (V.A.C.S. Art. 2606c, Sec. 1 (part).)

[Sections 74.155 to 74.200 reserved for expansion]

SUBCHAPTER E. MEDICAL SCHOOL TO BE ESTABLISHED AND LOCATED BY BOARD OF REGENTS

§ 74.201. Establishment and Location; Name; Scope

(a) The board of regents may establish and maintain an additional medical branch of the university system at any location in the state. However, the location of the medical school must be determined by the board to be in the best interests of the people of the State of Texas and must be approved by the Coordinating Board, Texas College and University System. The school so established shall be known by a name designated by the board. The board is prohibited, however, from establishing this medical school in the same county that maintains or operates the main campus of any public or private medical school on September 1, 1969.

(b) The board may provide for the teaching and training of medical students, medical technicians, and other technicians in the practice of medicine. (V.A.C.S. Art. 2606c—1.1, Sec. 4.)

§ 74.202. Courses and Degrees; Rules and Regulations

The board may prescribe courses leading to customary degrees offered in other leading American medical schools, may award the degrees, and may make other rules and regulations for the operation, control, and management of the school, including the determination of the number of students that shall be admitted to any degree-granting program, that are necessary for the conduct of a professional school of the first class. (V.A.C.S. Art. 2606c—1.1, Sec. 5.)

§ 74.203. Affiliation Agreements; Joint Appointments

The board may execute and carry out with any entity or institution affiliation or coordinating agreements that are reasonably necessary or desirable for the conduct and operation of a professional school of the first class; and the board may make joint appointments in other institutions under its governance. The salary of any person who receives a joint appointment shall be apportioned to the appointing institutions on the basis of services rendered. (V.A.C.S. Art. 2606c—1.1, Sec. 6.)

§ 74.204. Gifts and Grants

The board may accept and administer, on terms and conditions satisfactory to it, grants or gifts of property, including real estate and money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of the school and in aid of research and teaching at the school. The board may accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money, for the use and benefit of the school. (V.A.C.S. Art. 2606c—1.1, Sec. 7.)

§ 74.205. Teaching Hospital

A complete teaching hospital for the school shall be furnished at no cost or expense to the state, and the state shall never contribute any funds for the construction, maintenance, or operation of a teaching hospital for the school. (V.A.C.S. Art. 2606c—1.1, Sec. 8.)

[Sections 74.205 to 74.250 reserved for expansion]

SUBCHAPTER F. THE UNIVERSITY OF TEXAS DENTAL SCHOOL AT SAN ANTONIO**§ 74.251. Component Institution**

The University of Texas Dental School at San Antonio is a component institution of The University of Texas System under the management and control of the board of regents of The University of Texas System. (V. A.C.S. Art. 2603f—3, Sec. 1 (part).)

§ 74.252. Training and Teaching

The board may provide for the training and teaching of dental students, dental technicians, and other technicians related to the practice of dentistry. (V.A.C.S. Art. 2603f—3, Sec. 1 (part).)

§ 74.253. Courses and Degrees; Rules and Regulations

The board may prescribe courses leading to customary degrees offered in other leading American dental schools, may award the degrees, and may make other rules and regulations for the operation, control, and management of the school, including the determination of the number of students that shall be admitted to any degree-granting program, as may be necessary for the conduct of a professional school of the first class. (V.A.C.S. Art. 2603f—3, Sec. 2.)

§ 74.254. Affiliation Agreements; Joint Appointments

The board may execute and carry out with any entity or institution affiliation or coordinating agreements that are reasonably necessary or desirable for the conduct and operation of a professional school of the first class; and the board may make joint appointments in other institutions under its governance. The salary of a person who receives a joint appointment shall be apportioned to the appointing institutions on the basis of services rendered. (V.A.C.S. Art. 2603f—3, Sec. 3.)

§ 74.255. Gifts and Grants

The board may accept gifts and grants from any source for the benefit of the dental school. (V.A.C.S. Art. 2603f—3, Sec. 4.)

[Sections 74.256 to 74.300 reserved for expansion]

**SUBCHAPTER G. THE UNIVERSITY OF TEXAS (CLINICAL)
NURSING SCHOOL AT SAN ANTONIO**

§ 74.301. Establishment; Purpose

The board of regents may establish and maintain in Bexar County The University of Texas (Clinical) Nursing School at San Antonio, a clinical nursing school for the education of nursing students. (V.A.C.S. Art. 2606c—2, Sec. 1 (part).)

§ 74.302. Hospital Facilities and Services

All hospital facilities and services required for the operation and maintenance of the nursing school shall be furnished and provided at no cost or expense to the state at the time of completion of the nursing school and subsequently. (V.A.C.S. Art. 2606c—2, Sec. 1 (part).)

§ 74.303. Courses and Degrees; Rules and Regulations

The board may prescribe courses leading to customary degrees offered in other leading American nursing schools, may award those degrees, and may make rules and regulations for the operation, control, and management of the school as may be necessary for the conduct of a professional school of the first class. (V.A.C.S. Art. 2606c—2, Sec. 2.)

§ 74.304. Affiliation Agreements; Joint Appointments

The board may execute and carry out with any entity or institution affiliation or coordinating agreements that are reasonably necessary or desirable for the conduct and operation of a professional school of the first class, not in conflict with Section 74.302 of this code; and the board may make joint appointments in other institutions under its governance. The salary of any person who receives a joint appointment shall be apportioned to the appointing institutions on the basis of services rendered. (V.A.C.S. Art. 2606c—2, Sec. 4.)

§ 74.305. Gifts and Grants

The board may accept and administer, on terms and conditions satisfactory to it, grants and gifts of property, including real estate and money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of the school and in aid of research and teaching at the school. The board may accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records and money, for the use and benefit of the school. (V.A.C.S. Art. 2606c—2, Sec. 5.)

§ 74.306. Liberal Arts Courses Pending Establishment

While the nursing school is being established, students may take the prerequisite liberal arts courses prescribed by the nursing school. (V.A.C.S. Art. 2606c—2, Sec. 3.)

[Sections 74.307 to 74.350 reserved for expansion]

SUBCHAPTER H. THE UNIVERSITY OF TEXAS (UNDERGRADUATE) NURSING SCHOOL AT EL PASO**§ 74.351. Establishment; Purpose**

The board of regents may establish and maintain in El Paso County The University of Texas (Undergraduate) Nursing School at El Paso, a four-year school for the education of nursing students. (V.A.C.S. Art. 2606c—2.1, Sec. 1 (part).)

§ 74.352. Hospital Facilities and Services

All hospital facilities and services required for the operation and maintenance of the nursing school shall be furnished and provided at no cost or expense to the state at the time of completion of the nursing school and subsequently. (V.A.C.S. Art. 2606c—2.1, Sec. 1 (part).)

§ 74.353. Courses and Degrees; Rules and Regulations

The board may prescribe courses leading to customary degrees offered in other leading American nursing schools, may award those degrees, and may make rules and regulations for the operation, control, and management of the school as may be necessary for the conduct of a professional school of the first class. (V.A.C.S. Art. 2606c—2.1, Sec. 2.)

§ 74.354. Affiliation Agreements; Joint Appointments

The board may execute and carry out with any entity or institution affiliation or coordinating agreements that are reasonably necessary or desirable for the conduct and operation of a professional school of the first class, not in conflict with Section 74.352 of this code; and the board may make joint appointments in other institutions under its governance. The salary of any person who receives a joint appointment shall be apportioned to the appointing institution on the basis of services rendered. (V.A.C.S. Art. 2606c—2.1, Sec. 3.)

§ 74.355. Gifts and Grants

The board may accept and administer, on terms and conditions satisfactory to it, grants and gifts of property, including real estate and money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of the school and in aid of research and teaching at the school. The board may accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records and money, for the use and benefit of the school. (V.A.C.S. Art. 2606c—2.1, Sec. 4.)

[Sections 74.356 to 74.400 reserved for expansion]

**SUBCHAPTER I. THE UNIVERSITY OF TEXAS
NURSING SCHOOL (SYSTEM-WIDE)**

Subchapter I consisting of sections 74.401 to 74.404 was added to Chapter 74 by Acts 1971, 62nd Leg., p. 3346, ch. 1024, Art. 2, § 19, effective Sept. 1, 1971.

§ 74.401. Composition, Operation, Maintenance

The board of regents of The University of Texas System is authorized to establish, maintain, and operate The University of Texas Nursing School (System-wide) which is composed of the following branches: The University of Texas (Undergraduate) Nursing School at Austin; The University of Texas (Graduate) Nursing School at Austin; The University of Texas (Undergraduate) Nursing School at El Paso; The University of Texas (Clinical) Nursing School at Galveston; The University of Tex-

as (Clinical) Nursing School at San Antonio; and The University of Texas (Undergraduate) Nursing School at Tarrant County. The board is authorized to provide for the education of nursing students at each nursing school; however, all hospital facilities and services required for the operation and maintenance of each nursing school shall be furnished and provided at no cost and expense to the State of Texas except at the Galveston Division of The University of Texas (Clinical) Nursing School at Galveston.

Added by Acts 1971, 62nd Leg., p. 3346, ch. 1024, Art. 2, § 19, eff. Sept. 1, 1971.

§ 74.402. Courses, Degrees, Etc.

The board is authorized to prescribe courses leading to such customary degrees as are offered in other leading American nursing schools, to award those degrees, and to make rules and regulations for the operation, control, and management of each nursing school, as may be necessary for the conduct of professional schools of the first class.

Added by Acts 1971, 62nd Leg., p. 3347, ch. 1024, Art. 2, § 19, eff. Sept. 1, 1971.

§ 74.403. Affiliation Agreements; Joint Appointments

The board is authorized to execute and carry out with any entity or institution affiliation or coordinating agreements that are reasonably necessary or desirable for the conduct and operation of professional schools of the first class, not in conflict with Section 74.401 of this code, and the board is specifically authorized to make joint appointments in other institutions under its governance, the salary of any such person who receives a joint appointment to be apportioned to the appointing institutions on the basis of services rendered.

Added by Acts 1971, 62nd Leg., p. 3347, ch. 1024, Art. 2, § 19, eff. Sept. 1, 1971.

§ 74.404. Gifts and Grants

The board may accept gifts and grants from any source in aid of the conduct and operation of The University of Texas Nursing School (System-wide) or the branch nursing schools. (S.B.No.337, 62nd Legislature, Reg.Sess. 1971.)

Added by Acts 1971, 62nd Leg., p. 3347, ch. 1024, Art. 2, § 19, eff. Sept. 1, 1971.

CHAPTER 75. OTHER UNITS OF THE UNIVERSITY OF TEXAS SYSTEM

SUBCHAPTER A. THE INSTITUTE OF TEXAN CULTURES

Section

75.001. Institute of Texan Cultures.

75.002. Purpose of Institute.

75.003. Gifts of Land.

[Sections 75.004 to 75.100 reserved for expansion]

SUBCHAPTER B. INSTITUTE FOR URBAN STUDIES

75.101. Creation of Institute; Location.

75.102. Administration.

75.103. Role and Scope of Institute.

75.104. Correlation of Programs.

75.105. Receipt and Disbursement of Funds, Property, and Services.

SUBCHAPTER A. THE INSTITUTE OF TEXAN CULTURES**Section 75.001. Institute of Texan Cultures**

The Institute of Texan Cultures and the Texas State Exhibits Building at HemisFair 1968, and all land and improvements related to them, are under the management and control of the board of regents. (59th Legis., Ch. 443, Sec. 8(a), as amended.)

§ 75.002. Purpose of Institute

The institute shall continue to be used principally as a center concerned with subjects relating to the history and culture of the people of Texas, with collecting, organizing, and interpreting information on Texas subjects, and with producing films, filmstrips, slides, tapes, publications, and exhibits on these subjects for statewide use on television, in classrooms, in museums, and at public gatherings for the benefit of the people of Texas. (59th Legis., Ch. 443, Sec. 8(c), as amended.)

§ 75.003. Gifts of Land

The board may accept gifts of land for the benefit of the institute. (59th Legis., Ch. 443, Sec. 8(b), as amended.)

[Sections 75.004 to 75.100 reserved for expansion]

SUBCHAPTER B. INSTITUTE FOR URBAN STUDIES**§ 75.101. Creation of Institute; Location**

The board of regents of The University of Texas System shall establish and maintain an institute for urban studies in the Fort Worth-Dallas metropolitan area. (V.A.C.S. Art. 2606d, Sec. 1.)

§ 75.102. Administration

The administration of the institute for urban studies shall be under the direction of the chancellor and board of regents of The University of Texas System. The administrative officer of the institute shall be appointed by the chief academic executive of his university with the approval of the board. The administrative officer shall appoint the professional and administrative staff of the institute according to usual procedures and with the approval of the board. (V.A.C.S. Art. 2606d, Sec. 3.)

§ 75.103. Role and Scope of Institute

The institute of urban studies shall conduct basic and applied research into urban problems and public policy and make available the results of this research to private groups and public bodies and officials. It may offer consultative and general advisory services concerning urban problems and their solutions. According to the policies of the Coordinating Board, Texas College and University System, and with its approval, the institute may conduct instructional and training programs for those who are working in or expect to make careers in urban public service. The training programs may be conducted by the institute either in its own name or by agreement and cooperation with other public and private organizations. (V.A.C.S. Art. 2606d, Sec. 2 (part).)

§ 75.104. Correlation of Programs

In order to correlate the programs offered by the institute and the institute established by the University of Houston under Subchapter D,

Chapter 111, of this code, there shall be maintained regular liaison between the institutes concerning programs undertaken, a joint committee for future planning, and a union catalogue of research resources. This correlation shall be achieved by utilizing regular administrative channels, including the staff of the Coordinating Board, Texas College and University System. (V.A.C.S. Art. 2606d, Sec. 2 (part).)

§ 75.105. Receipt and Disbursement of Funds, Property, and Services

In addition to state appropriations, the institute may receive and expend or use funds, property, or services from any source, public or private, under rules established by the chief academic executive of the university and the board and under applicable state laws. (V.A.C.S. Art. 2606d, Sec. 4.)

**SUBTITLE D. THE TEXAS A & M
UNIVERSITY SYSTEM**

**CHAPTER 85. ADMINISTRATION OF THE TEXAS A & M
UNIVERSITY SYSTEM**

SUBCHAPTER A. GENERAL PROVISIONS

Section

85.01 Definitions.

[Sections 85.02 to 85.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 85.11. Board of Directors.
- 85.12. Qualifications; Terms.
- 85.13. Certificate of Appointment.
- 85.14. President of Board.
- 85.15. Expenses of Directors.
- 85.16. Seal.

[Sections 85.17 to 85.20 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF BOARD

- 85.21. General Powers and Duties.
- 85.22. Expenditures.
- 85.23. Permanent Improvements; Contracts; Land Transactions.
- 85.24. Utilities.
- 85.25. Lands and Mineral Interests.
- 85.26. Leases and Easements; Rights-of-Way for Electric Lines, Pipelines, Irrigation Canals, Etc.
- 85.27. Flood Control Easements.
- 85.28. Airports.
- 85.29. Research and Experimentation for Highway Department.

[Sections 85.30 to 85.50 reserved for expansion]

**SUBCHAPTER D. LEASE OF LANDS FOR OIL, GAS,
AND OTHER MINERAL DEVELOPMENT**

Section

- 85.51. Authority to Lease.
- 85.52. Sale of Mineral Ore in Place.
- 85.53. Tracts, Lots, Blocks.
- 85.54. Placing Leases on Market; Advertising.
- 85.55. Public Auction; Bids; Acceptance; Rejection; Payments.
- 85.56. Subsequent Procedure if No Bids Accepted.
- 85.57. Withdrawal of Land Advertised.
- 85.58. Acceptance of Bids; Award of Lease.
- 85.59. Exploratory Term; Extension; Other Provisions of Lease.
- 85.60. Discontinuance of Yearly Payments; Termination for Nonproduction.
- 85.61. Operations under Lease: Effect on Rental Payments, Term of Lease.
- 85.62. Proration or Reduction of Production.
- 85.63. Interference with Surface Uses.
- 85.64. Protection from Drainage.
- 85.65. Rights of Purchaser; Assignment; Relinquishment.
- 85.66. Royalty Payments; Inspection of Records; Report of Land Commissioner.
- 85.67. Forfeiture; Other Remedies; Lien.
- 85.68. Filing of Records.
- 85.69. Payments; Disposition.
- 85.70. Disposition of Money; Special Funds; Investment.
- 85.71. Forms; Contracts; Regulations.
- 85.72. Expenses of Executing this Subchapter.

SUBCHAPTER A. GENERAL PROVISIONS

Section 85.01. Definitions

In this chapter:

- (1) "System" or "university system" means The Texas A & M University System.
- (2) "Board" means the board of directors of The Texas A & M University System. (New.)

[Sections 85.02 to 85.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 85.11. Board of Directors

The government of the university system is vested in a board of nine directors appointed by the governor with the advice and consent of the senate. (R.S. Art. 2610 (part); V.A.C.S. Art. 2607a, Secs. 2, 3.)

§ 85.12. Qualifications; Terms

Each member of the board shall be a qualified voter; and the members shall be selected from different portions of the state. The members hold office for staggered terms of six years, with the terms of three expiring every two years. (R.S. Art. 2907 (part).)

§ 85.13. Certificate of Appointment

The secretary of state shall forward a certificate to each director within 10 days after his appointment, notifying him of the fact of his appointment. If any person so appointed and notified fails for 10 days to give notice to the governor of his acceptance, his appointment shall be deemed void and his place shall be filled as in the case of a vacancy. (R.S. Art. 2611.)

§ 85.14. President of Board

The board shall elect from its members a president of the board, who shall call the board together for the transaction of business whenever he deems it expedient. (R.S. Art. 2610 (part).)

§ 85.15. Expenses of Directors

The directors shall serve without compensation but are entitled to reimbursement for actual expenses incurred in attending board meetings and in transacting the official business of the board. (R.S. Art. 2612.)

§ 85.16. Seal

The board may make and use a common seal. (R.S. Art. 2610 (part).)

[Sections 85.17 to 85.20 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF BOARD**§ 85.21. General Powers and Duties**

The board shall make bylaws, rules, and regulations it deems necessary and proper for the government of the university system and its institutions, agencies, and services. The board shall regulate the course of study and prescribe the course of discipline necessary to enforce the faithful discharge of the duties of the officers, faculty, and students. (R.S. Art. 2613, subd. 6.)

§ 85.22. Expenditures

All expenditures may be made by order of the board and shall be paid on warrants from the comptroller based on vouchers approved by the president of the board or by some officer or officers designated by him in writing to the comptroller. (R.S. Art. 2613, subd. 9.)

§ 85.23. Permanent Improvements; Contracts; Land Transactions

(a) The board may contract with persons, firms, or corporations for the purchase, acquisition, or construction of permanent improvements on or conveniently located with reference to the campus of any institution of the system; and may purchase, sell, or lease lands and other appurtenances for the construction of the permanent improvements. However, no liability shall be incurred by the State of Texas under this subsection.

(b) The board may sell, encumber, or contract with reference to the divesting or encumbering of the title to, any part of the campus or other property of any institution of the system as may be necessary in the construction or acquisition of dormitories. However, no debt shall be incurred against the institution or the State of Texas. (V.A.C.S. Art. 2613a—1, Secs. 1, 4, and 7.)

§ 85.24. Utilities

(a) The board from time to time may improve and equip existing central power plants and may construct, acquire, improve, and equip steam

plants and additions to them, and the board may acquire land for these purposes for the institutions under its control, when the total cost, type of construction, capacity, and plans and specifications have been approved by the board. As used in this subsection, "steam plants" does not include electrical generating facilities, but "central power plants" does include electrical generating facilities.

(b) The board from time to time may construct, extend, and improve the water systems, sewer systems, or both, for any or all institutions under its control, when the total cost, type of construction, capacity, and plans and specifications have been approved by the board.

(c) The board may furnish water, sewer, steam, power, electricity, or any or all of those services from the power and steam plant or plants and other facilities located at each institution, to any or all dormitories, kitchens and dining halls, hospitals, student activity buildings, gymnasiums, athletic buildings and stadiums, the dormitory for help, laundry, and other buildings or facilities that may have been or may be constructed at each institution, and may determine the amount to be charged as a part of the maintenance and operation expense of those buildings or facilities for the service or services. The board may allocate the cost of furnishing the services to revenue-producing buildings and facilities and to other buildings and facilities at the institutions. The board may pledge the net revenues from the amounts thus received for the services to pay the principal of and interest on, and to create and maintain the reserve for, the negotiable revenue bonds issued for the purpose of constructing, acquiring, improving, extending, or equipping the power and steam plants, or additions thereto, or other facilities, and may secure the bonds additionally by pledging rentals, rates, charges, and fees for the use or availability of all or any property, buildings, structures, activities, operations, or facilities, of any nature, which may be fixed and collected from all or any designated part of the students enrolled in the institution or institutions or from others in the amounts and in the manner determined and provided by the board in the resolution authorizing the issuance of the bonds. (V.A.C.S. Art. 2613a—4, Secs. 1a, 1b, 4.)

§ 85.25. Lands and Mineral Interests

(a) The board is vested with the sole and exclusive management and control of lands and mineral interests under its jurisdiction and that may be acquired by it. The board may convey lands to other units or agencies of government; and where not otherwise authorized by existing law so to do, the board may sell said lands or lease the surface estate under terms and conditions it deems best in the public interest. The board may not, however, sell or otherwise dispose of any land comprising the original main campus of Texas A & M University, located at College Station, except as specifically authorized by existing law. Proceeds received therefrom may be retained in local funds subject to disposition by the board for any lawful purpose.

(b) This section is cumulative of existing statutes relating to the authority of the board to lease for oil, gas, sulphur, mineral ore, and other mineral developments, and otherwise to buy, sell, and lease certain lands under its jurisdiction and supervision.

(c) This section does not cover any lands or minerals held by the general land office. (V.A.C.S. Art. 2613a—11.)

§ 85.26. Leases and Easements; Rights-of-Way for Electric Lines, Pipelines, Irrigation Canals, Etc.

(a) The board may execute leases and grant easements for rights-of-way for telephone, telegraph, electric transmission, and power lines, for oil pipelines, gas pipelines, sulphur pipelines, water pipelines and other electric lines and pipelines of any nature whatsoever, and for irrigation

canals, and laterals, and may execute easements or leases for the erection and maintenance of electric substations, pumping stations, loading racks, tank farms, and other structures, and may execute easements for rights-of-way to the Texas Highway Department, to any county in the state, or to any corporation, group, organization, firm, or individual for highway or roadway purposes, on or across any lands belonging to the state and under the control of the board, if the board in its discretion deems it apparent that the interest of the state can best be served by the granting of the easements and leases.

(b) Each easement granted under this section shall be on forms approved by the attorney general and shall include a complete description of the land on which the easement is to be granted, the period of time covered by the easement, the amount of money to be paid by the grantee to the grantor, or other consideration for the granting of such easement. It shall also specify the terms and conditions, penalties for failure to comply with its provisions, and other pertinent information necessary and desirable to effect a complete understanding of the transaction.

(c) The grant of an easement for right-of-way, except an easement for right-of-way for highway or roadway purposes which may be for an indefinite term shall be limited to a term of not longer than 10 years, but any such easement may be renewed by the board.

(d) All income received by the board under the provisions of this section shall be accounted for and used in the same manner as other money available to the part of the system to which the land from which the easement is granted is assigned.

(e) No person, firm, group, organization, agency, or corporation shall hereafter construct any telephone, telegraph, transmission, or electric line, pipeline, electric substation, tank farm, loading rack, pumping station, irrigation canal or lateral, highway, or roadway of the kind and character enumerated in Subsection (a) of this section, across or on any section or part of a section of land of the character described in Subsection (a) of this section, who has not obtained a proper easement as provided by this section; or continue in possession of any such land without obtaining from the board a grant of a right-of-way easement or other easement across or on such land where the telephone, telegraph, transmission, or electric lines, pipelines, or any other transmission or pipelines, electric substation, tank farm, loading rack, or pumping station, irrigation canal or lateral, highway, or roadway is to² constructed. Any person, firm, group, organization, agency, or corporation violating this subsection shall be liable for a penalty of \$100 for each day of the violation, to be recovered by the attorney general. (V.A.C.S. Art. 2613a—7.)

² Probably should read "to be".

§ 85.27. Flood Control Easements

The board may convey flood control easements over land under its jurisdiction and control to water control and improvement districts of this state. No flood control easement shall be conveyed unless the board receives from the district reasonable consideration for the conveyance. The conveyance shall be under the terms and conditions that the board deems in the best interest of the university system. (V.A.C.S. Art. 2613a—9.)

§ 85.28. Airports

(a) The board may construct or otherwise acquire an airport for any institution within the system. It may maintain and operate the airports in connection with the teaching of courses in aeronautical engineering and for purposes in cooperation with the national defense program and for other purposes which will not interfere with those uses.

(b) The board may acquire by purchase, lease, gift, condemnation, or otherwise, and may use, operate, and maintain any kind of property or property interest necessary or convenient to the exercise of powers under this section. The power of eminent domain shall be exercised in the manner provided by general law, including Title 52, Revised Civil Statutes of Texas, 1925, as amended, except that the board shall not be required to give bond for appeal or bond for costs. (V.A.C.S. Art. 2615c.)

§ 85.29. Research and Experimentation for Highway Department

The state comptroller of public accounts may draw proper warrants in favor of any part of the university system based on vouchers or claims submitted by the system through the State Highway Department covering reasonable fees and charges for services rendered by members of the staff of the system to the State Highway Department and for equipment and materials necessary for research and experimentation in all phases of highway activity, economics, materials, specifications, design of roadways, construction, maintenance, pavement and structures, traffic control, safety, the economics of highway design and construction, and other fields of highway design, construction, maintenance, or operation, based on an agreement between the State Highway Department and the Texas Agricultural and Mechanical College System as passed by the State Highway Department on September 29, 1948, and recorded by the State Highway Department as Minute Order Number 25396; and the state treasurer shall pay warrants so issued against any funds appropriated by the legislature to the State Highway Department for the construction and maintenance of highways, roads, and bridges. The payments made to the system shall be credited and deposited to local institutional funds under its control. (V.A.C.S. Art. 2615e.)

[Sections 85.30–85.50 reserved for expansion]

SUBCHAPTER D. LEASE OF LANDS FOR OIL, GAS, AND OTHER MINERAL DEVELOPMENT

§ 85.51. Authority to Lease

The board may lease for oil, gas, sulphur, mineral ore, and other mineral developments to the highest bidder at public auction all lands used for experimental stations and all other lands under its exclusive control, or any part of those lands, owned or in the future acquired by the state for the use of the university system. (V.A.C.S. Art. 2613a—3, Sec. 1(a).)

§ 85.52. Sale of Mineral Ore in Place

Mineral ore located in and on the land may also be sold in place by the board at not less than the fair market value as determined by the same methods as are provided for leasing of lands under this subchapter for development of the minerals in the lands. (V.A.C.S. Art. 2613a—3, Sec. 4a.)

§ 85.53. Tracts, Lots, Blocks

The board may cause the lands to be surveyed or subdivided into tracts, lots, or blocks that will, in its judgment, be most conducive and convenient to facilitate the advantageous sale of lease for oil, gas, sulphur, mineral ore, and other minerals, and may make maps and plats that may be thought necessary to carry out the purposes of this subchapter. The board may obtain authentic abstracts of title to all the lands as it deems necessary from time to time, and may take any steps necessary to perfect a merchantable title to the lands in the State of Texas. (V.A.C.S. Art. 2613a—3, Sec. 2.)

§ 85.54. Placing Leases on Market; Advertising

(a) Whenever, in the opinion of the board, there is a demand for the purchase of oil, gas, sulphur, mineral ore, or other mineral leases on any tract or part of any tract of land that will reasonably insure an advantageous sale, the board shall place the oil, gas, sulphur, mineral ore, or other mineral leases on the land on the market in any tract or tracts, or any part thereof, that the board may designate.

(b) The board shall cause to be advertised a brief description of the land from which the oil, gas, sulphur, mineral ore, or other minerals is proposed to be leased. The advertisement shall be made by inserting in two or more papers of general circulation in this state; and in addition the board may, in its discretion, cause the advertisement to be placed in an oil and gas journal published in and out of the state, mail copies of the proposals to the county judge of the county where the lands are located, and mail copies of the proposals to other persons the board thinks would be interested. (V.A.C.S. Art. 2613a—3, Sec. 3 (part).)

§ 85.55. Public Auction; Bids; Acceptance; Rejection; Payments

(a) The board may sell the lease or leases to the highest bidder at public auction, at Texas A & M University, in College Station, at any hour between 10 a. m. and 5 p. m.

(b) The board may reject all bids. However, the highest bidder shall pay to the board on the day of the sale 25 percent of the bonus bid, and the balance of the bid shall be paid to the board within 24 hours after notification that the bid has been accepted. Payments shall be in cash, certified check, or cashier's check, as the board may direct. Failure to pay the balance of the amount bid will forfeit to the board the 25 percent paid.

(c) A separate bid shall be made for each tract or subdivision thereof. No bids shall be accepted which offer less than the fair market price per ton for the mineral ore or a royalty of less than one-eighth of the gross production of oil, gas, sulphur, and other minerals in the land bid upon, and this minimum royalty may be increased at the discretion of the board. Every bid shall carry the obligation to pay an amount not less than \$1 per acre for delay in drilling or development. The amount shall be fixed by the board in advance of the advertisement and shall be paid every year for five years unless in the meantime production in paying quantities is had upon the land or the land is re-leased by the lessee. (V.A.C.S. Art. 2613a—3, Secs. 3 (part), 4.)

§ 85.56. Subsequent Procedure if No Bids Accepted

If no bid is accepted by the board at the public auction, any subsequent procedure for the sale of oil, gas, sulphur, mineral ore, and other mineral leases shall be in the manner prescribed by this subchapter. (V.A.C.S. Art. 2613a—3, Sec. 5 (part).)

§ 85.57. Withdrawal of Land Advertised

The board may withdraw any lands advertised for lease or for the sale of mineral ore in place. (V.A.C.S. Art. 2613a—3, Sec. 14 (part).)

§ 85.58. Acceptance of Bids; Award of Lease

(a) If in the opinion of the board any one of the bidders has offered a reasonable and proper price for any tract and not less than the price fixed by the board, the lands advertised may be leased for oil, gas, sulphur, mineral ore, and other mineral purposes under the provisions of this subchapter and any regulations the board may prescribe which are not inconsistent with the provisions of this subchapter.

(b) On acceptance of a bid, the board shall prepare a lease contract. The bid and a copy of the lease contract shall be filed in the general land office. (V.A.C.S. Art. 2613a—3, Secs. 5 (part), 6 (part), 7(a).)

§ 85.59. Exploratory Term; Extension; Other Provisions of Lease

(a) The exploratory term of the lease as determined by the board prior to the promulgation of the advertisement shall in no case exceed five years, and each lease shall provide that the lease will terminate at the expiration of its exploratory term unless by unanimous vote of members of the board the lease may be extended for a period of three years. The lease may be extended if the board finds that there is likelihood of oil, gas, sulphur, mineral ore, and other minerals being discovered by lessees, and that the lessees have proceeded with diligence to protect the interest of the state. However, if oil, gas, sulphur, mineral ore, and other minerals are being produced in paying quantities from the premises, the lease shall continue in force and effect as long as the oil, gas, sulphur, mineral ore, and other minerals are being so produced. No extension under this subsection may be made by the board until the last 30 days of the original term of the lease.

(b) When, in the discretion of the board, it is deemed for the best interest of the state to extend a lease issued by the board, the board by unanimous vote may extend the lease for a period not to exceed three years, on the condition that the lessee shall continue to pay yearly rental as provided in the lease and any additional terms the board may see fit and proper to demand. The board may extend the lease and execute an extension agreement.

(c) The lease shall include any additional provisions and regulations the board may prescribe to preserve the interest of the state, not inconsistent with the provisions of this subchapter. (V.A.C.S. Art. 2613a—3, Sec. 7(b), (c).)

§ 85.60. Discontinuance of Yearly Payments; Termination for Nonproduction

When the royalties amount to as much as the yearly payments as fixed by the board, the yearly payments may be discontinued. If before the expiration of five years oil, gas, sulphur, mineral ore, and other minerals have not been produced in paying quantities, the lease shall terminate unless extended as provided by this subchapter. (V.A.C.S. Art. 2613a—3, Sec. 6 (part).)

§ 85.61. Operations under Lease: Effect on Rental Payments, Term of Lease

If, during the term of any lease issued under the provisions of this subchapter, the lessee is engaged in actual drilling and mining operations for the discovery of oil, gas, sulphur, mineral ore, and other minerals on land covered by any such lease, no rentals shall be payable as to the tract on which the operations are being conducted as long as the operations are proceeding in good faith; and if oil, gas, sulphur, mineral ore, and other minerals are discovered in paying quantities on any tract of land covered by any lease, then the lease as to that tract shall remain in force as long as oil, gas, sulphur, mineral ore, and other minerals are produced in paying quantities from the tract. (V.A.C.S. Art. 2613a—3, Sec. 8 (part).)

§ 85.62. Proration or Reduction of Production

When, in the discretion of the board, it is for the best interest of the state to prorate or reduce production of any land, the board may execute the necessary contract to carry out that purpose. (V.A.C.S. Art. 2613a—3, Sec. 7(d).)

§ 85.63. Interference with Surface Uses

No lease for oil, gas, sulphur, mineral ore, and other minerals shall be made by the board which will permit the drilling or mining for oil, gas,

sulphur, mineral ore, and other minerals within 300 feet of any building on the land without the consent of the board. A lease on any experimental station or farm shall provide that the operations for oil, gas, sulphur, mineral ore, and other minerals shall not in any way interfere with use of the land as an experimental station and shall not cause the abandonment of the property or its use for experimental farm purposes; and the lessee shall drill, mine, and carry on his operations in such a way as not to cause the abandonment of the property for experimental farm purposes, and any such leased property shall be subject to the use by the State of Texas for all experimental purposes and the board shall continue to operate the experimental station. (V.A.C.S. Art. 2613a—3, Sec. 5 (part).)

§ 85.64. Protection from Drainage

In every case where the area in which oil, gas, sulphur, mineral ore, and other minerals sold shall be contiguous or adjacent to lands which are not lands belonging to and held by the university system, the acceptance of the bid and the sale made thereby shall constitute an obligation on the owner to adequately protect the land leased from drainage from the adjacent lands to the extent that a reasonably prudent operator would do under the same and similar circumstances. In cases where the area in which the oil, gas, sulphur, mineral ore, and other minerals are sold is contiguous to other lands belonging to and held by the university system which have been leased or sold at a lesser royalty, the owner shall likewise protect the land from drainage from the lands so leased or sold for a lesser royalty. On failure to protect the land from drainage as herein provided, the sale and all rights thereunder may be forfeited by the board in the manner provided in this subchapter for forfeitures. (V.A.C.S. Art. 2613a—3, Sec. 11.)

§ 85.65. Rights of Purchaser; Assignment; Relinquishment

(a) Title to all rights purchased may be held by the owners as long as the area produces oil, gas, sulphur, mineral ore, and other minerals in paying quantities.

(b) All rights purchased may be assigned. All assignments shall be filed in the general land office within 100 days from the date of the first acknowledgment thereof, accompanied by 10 cents per acre for each acre assigned; and if not so filed and payment made, the assignment shall not be effective.

(c) All rights to any whole tract or to any assigned portion thereof may be relinquished to the state at any time by having an instrument of relinquishment recorded in the county or counties in which the area may be situated, and filed with the chairman of the board, accompanied by \$1 for each area assigned; but such assignment shall not relieve the owner of any past due obligations theretofore accrued thereon.

(d) The board shall authorize the laying of pipeline, telephone line, and the opening of roads as deemed reasonably necessary for and incident to the purpose of this subchapter. (V.A.C.S. Art. 2613a—3, Sec. 9.)

§ 85.66. Royalty Payments; Inspection of Records; Report of Land Commissioner

(a) If oil or other minerals are developed on any of the lands leased by the board, the royalty or money as stipulated in the sale shall be paid to the general land office at Austin on or before the last day of each month for the preceding month during the life of the rights purchased, and shall be set aside in the state treasury as specified in Section 85.70 of this code. The royalty or money paid to the general land office shall be accompanied by the sworn statement of the owner, manager, or other authorized agent showing the gross amount of oil, gas, sulphur, mineral ore,

and other minerals produced and saved since the last report, the amount of oil, gas, sulphur, mineral ore, and other minerals produced and sold off the premises, and the market value of the oil, gas, sulphur, mineral ore, and other minerals, together with a copy of all daily gauges, or vats, tanks, gas meter readings, pipeline receipts, gas line receipts and other checks and memoranda of the amounts produced and put into pipelines, tanks, vats, or pool and gas lines, gas storage, other places of storage, and other means of transportation.

(b) The books and accounts, receipts and discharges of all wells, tanks, vats, pools, meters, pipelines, and all contracts and other records pertaining to the production, transportation, sale, and marketing of oil, gas, sulphur, mineral ore, and other minerals shall at all times be subject to inspection and examination of any member of the board or any duly authorized representative of the board.

(c) The commissioner of the general land office shall tender to the board on or before the 10th day of each month a report of all receipts from the lease or sale of oil, gas, sulphur, mineral ore, and other minerals turned into the special fund in the state treasury of the preceding month. (V.A.C.S. Art. 2613a—3, Sec. 10.)

§ 85.67. Forfeiture; Other Remedies; Lien

(a) If the owner of the rights acquired under this subchapter fails or refuses to make the payment of any sum due thereon, either as rental, royalty on production, or other payment, within 30 days after same becomes due, or if the owner or his authorized agent makes any false return or false report concerning production, royalty, drilling, or mining, or if the owner fails or refuses to drill any offset well or wells in good faith, as required by his lease, or if the owner or his agent refuses the proper authority access to the records and other data pertaining to the operations under this subchapter, or if the owner or his authorized agent fails or refuses to give correct information to the proper authorities, or fails or refuses to furnish the log of any well within 30 days after production is found in paying quantities, or if any of the material terms of the lease are violated, the lease is subject to forfeiture by the board by an order entered upon the minutes of the board reciting the facts constituting the default and declaring the forfeiture.

(b) The board may have suit instituted for forfeiture through the attorney general.

(c) On proper showing by the forfeiting owner, within 30 days after the declaration of forfeiture, the lease may, at the discretion of the board and on such terms as it may prescribe, be reinstated.

(d) In case of violation by the owner of the lease contract, the remedy of the state by forfeiture is not the exclusive remedy, but suit for damages or specific performance, or both, may be instituted.

(e) The state shall have a first lien upon all oil, gas, sulphur, mineral ore, and other minerals produced upon the leased area and upon all rigs, tanks, vats, pipeline, telephone lines, and machinery and appliances used in the production and handling of oil, gas, sulphur, mineral ore, and other minerals produced thereon, to secure any amount due from the owner of the lease. (V.A.C.S. Art. 2613a—3, Sec. 12.)

§ 85.68. Filing of Records

All surveys, files, records, copies of sale and lease contracts, and all other records pertaining to the sales and leases hereby authorized, shall be filed in the general land office and constitute archives thereof. (V. A.C.S. Art. 2613a—3, Sec. 13 (part).)

§ 85.69. Payments; Disposition

Payments under this subchapter shall be made to the commissioner of the general land office at Austin, who shall transmit to the state treasurer all royalties, lease fees, rentals for delay in drilling or mining, and all other payments, including all filing assignments and relinquishment fees, to be deposited in the special fund in the state treasury as provided by Section 85.70 of this code. (V.A.C.S. Art. 2613a—3, Sec. 13 (part).)

§ 85.70. Disposition of Money; Special Funds; Investment

(a) All money received under and by virtue of this subchapter shall be deposited in the state treasury to the credit of a special fund to be known as The Texas A & M University System Special Mineral Investment Fund. In the judgment of the board, this special fund may be invested so as to produce an income which may be expended under the direction of the board in erecting permanent improvements for the university system and in payment of expenses incurred in connection with the administration of this subchapter. The unexpended income likewise may be invested as herein provided.

(b) The income from the investment of the special mineral investment fund shall be deposited to the credit of a fund to be known as The Texas A & M University System Special Mineral Income Fund, and shall be appropriated by the legislature exclusively for the university system for the purposes herein provided. (V.A.C.S. Art. 2613a—3, Sec. 1(b), (c).)

§ 85.71. Forms; Contracts; Regulations

The board shall adopt forms and contracts and shall promulgate rules and regulations that in its best judgment will protect the income from lands leased under this subchapter. A majority of the board may act in all cases, except where otherwise provided by this subchapter. (V.A.C.S. Art. 2613a—3, Sec. 14 (part).)

§ 85.72. Expenses of Executing this Subchapter

The expenses of executing the provisions of this subchapter shall be paid by warrants drawn by the comptroller on the state treasury against the income from the special fund accumulated from leases, rentals, royalties, and other payments. (V.A.C.S. Art. 2613a—3, Sec. 15.)

CHAPTER 86. TEXAS A & M UNIVERSITY

SUBCHAPTER A. GENERAL PROVISIONS

Section

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[Sections 86.04 to 86.10 reserved for expansion]

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Section

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[Sections 86.24 to 86.50 reserved for expansion]

SUBCHAPTER C. REAL ESTATE RESEARCH CENTER

- 86.51. Real Estate Research Center.
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SUBCHAPTER A. GENERAL PROVISIONS

Section 86.01. Definitions

In this chapter:

- (1) "University" means Texas A & M University.
- (2) "Board" means the board of directors of The Texas A & M University System. (New.)

§ 86.02. Texas A & M University

Texas A & M University is an institution of higher education located in the city of College Station. It is under the management and control of the board of directors of The Texas A & M University System. (R.S. Art. 2607; V.A.C.S. Art. 2607a, Sec. 1.)

§ 86.03. Leading Object

The leading object of the university shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanical arts, in such manner as the legislature may prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life. (R.S. Art. 2608.)

[Sections 86.04 to 86.10 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

§ 86.11. Appointment of President, Officers, Professors

The board shall appoint the president, the professors, and other officers it deems proper to keep the university in successful operation. It may abolish any office it deems unnecessary. (R.S. Art. 2613, subd. 1.)

§ 86.12. Entomologist

The president and board shall employ an expert entomologist, one or more, as may be deemed necessary, whose duty it shall be to devise, if possible, means of destroying the Mexican boll weevil, boll worm, caterpillar, sharpshooter, chinch bug, peach bug, fly and worm and other insect pests and to perform the duties of professor of entomology in the university. (R.S. Art. 2613, subd. 2.)

§ 86.13. Civil Engineer; Soil Conservation Demonstrations

The board shall employ a graduate civil engineer of the university who has a practical and scientific knowledge of the conservation of moisture

and soil fertility, who understands the practical art of terracing farmland to preserve the moisture and soil fertility and to prevent the washing away and the destruction of the properties of the soil, and who has had five years' actual experience in terracing farmlands in some southern state. He shall make his headquarters at the university, where he shall instruct the students by lecture and practical demonstration in the best method of such conservation and terracing so as to enable them to do the work successfully. He shall devote one-half of his time to such instruction, and the other half shall be spent in field work, giving practical demonstrations in terracing to farmers' institutes and other farmers' organizations; and the president of the university shall require him to go over the state on the application of farmers desiring expert instruction in terracing farmlands and in conserving the moisture and soil fertility. He shall be furnished with the necessary instruments and equipment for the demonstration and instruction. (R.S. Art. 2613, subd. 8.)

§ 86.14. Special Summer School

The board shall provide for a special summer school of at least two months each year for the training of special students who shall be admitted without an entrance examination, and may make provisions for the summer school, purchase the necessary equipment, and generally do and perform all acts necessary to establish and maintain the summer school. (R.S. Art. 2613, subd. 4.)

§ 86.15. Summer Sessions; Elementary Agriculture for Teachers

The board shall require the teaching of elementary agriculture for teachers in the summer sessions. (R.S. Art. 2613, subd. 7.)

§ 86.16. Firemen's Training School

(a) The university shall conduct and maintain a firemen's training school as a unit of the university in the manner deemed expedient and advisable by the board.

(b) The firemen's training school advisory board is composed of:

(1) three members of the teaching staff of the university appointed by the chairman of the board of directors; and

(2) four members or representatives of the State Firemen's Association of Texas or its successor, appointed by the president or other managing officer of that association.

(c) The advisory board shall confer with and advise the board of directors with reference to the organization of the school, the purchasing of equipment, the curriculum and program, and the conduct and management of the school.

(d) Expenditures for the per diem expenses of members of the advisory board and all other necessary expenses of the school shall be made only on the order of the board of directors, and no warrants shall be paid unless also approved in writing by the president of the university, who shall be advised with respect to the conduct of the school. (V.A.C.S. Art. 2615a.)

§ 86.17. Adjunct in Kimble County

The board may establish in Kimble County an adjunct of the university to be located on land furnished without cost to the state. The board may provide at the adjunct any services which conform to the leading object of the university as prescribed by Section 86.03 of this code, including research, subject to the exception that not more than \$300,000 may be expended from available plant funds for buildings and improvements without the specific authorization of the legislature. (V.A.C.S. Art. 2615d.)

§ 86.18. Graduate Programs; Contracts with Baylor University

The university may enter into contracts and agreements with Baylor University for joint participation in graduate programs that may be designed to benefit the state. (V.A.C.S. Art. 2615f—1, Sec. 2, subd. b.)

§ 86.19. Eminent Domain

The board is vested with the power of eminent domain to acquire for the use of the university any land that may be necessary and proper for carrying out its purposes. The power of eminent domain shall be exercised in the manner prescribed in Title 52, Revised Civil Statutes of Texas, 1925, as amended, except that the board shall not be required to deposit a bond or the amount equal to the award of the commissioners. (V.A.C.S. Art. 2613a—5.)

§ 86.20. Airport

The university may own and operate an airport, may accept federal aid and money for those purposes, and may enter into sponsor's assurance agreements with the federal government. It may operate the airport separately or in cooperation with a city, a county, the state, or the federal government, with the approval of the appropriate governing body, but without any expense to or liability against the state in any manner. (V. A.C.S. Art. 2919c.)

§ 86.21. Perpetual Fund

The money arising from the sale of the 180,000 acres of land donated to this state by the United States under the provisions of an Act of Congress passed on the second day of July, 1862, and an amended Act of Congress of July 23, 1866, shall constitute a perpetual fund, under the conditions and restrictions imposed by the above recited Acts, for the benefit of Texas A & M University; and the investment of the money, heretofore made in the bonds of the state, when those bonds are redeemed, may be made by the board in United States government securities in furtherance of the interests of the university and in accordance with the terms on which it was received. (R.S. Art. 2614.)

§ 86.22. Accrued Interest

The interest heretofore collected by the State Board of Education in accordance with the provisions of the act of August 21, 1876, due at the end of the fiscal year of 1876, on the bonds belonging to the Agricultural and Mechanical College and invested in six percent state bonds, shall also constitute a part of the perpetual fund of the university until the legislature shall otherwise provide. The state board shall collect the semiannual interest on the bonds as it becomes due, and place the money in the state treasury to the credit of the fund. The interest on all such bonds is set apart exclusively for the use of the university and shall be drawn from the treasury by the board of directors on vouchers audited by the board, or approved by the governor and attested by the secretary of the board. On the vouchers being filed with the comptroller, he shall draw his warrant on the state treasurer as necessary to pay the directors, professors and officers of the university. (R.S. Art. 2615.)

§ 86.23. Student Center Complex Fees

(a) The board of directors of Texas A & M University System is hereby authorized to levy a regular, fixed student fee not to exceed \$10 per student for each semester for the long session and not to exceed \$5 per student for each term of the summer session, or any fractional part thereof, against each student enrolled in said institution, as may in the board's discretion be just and necessary for the purpose of operating, maintaining, improving, and equipping the Texas A & M Student Center Complex and acquiring or constructing additions to said complex. The activities

of the student center complex financed in whole or in part by the student center complex fee shall be limited to those activities in which the entire student body is eligible to participate and in no event shall any of the activities so financed be held outside the territorial limits of Texas A & M University.

(b) The comptroller of Texas A & M University shall collect the fees provided for in Subsection (a) of this section and shall credit the money received from the fees to an account known as the Student Center Complex Fee Account.

(c) The money thus collected and placed in the said Student Center Complex Fee Account shall be used for the purpose of operating, maintaining, improving, and equipping the Texas A & M Student Center Complex. A complete and itemized budget shall be submitted annually to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The board of directors shall make such changes in the budget as it deems necessary before approving the same, and shall then levy the student fees under the provisions of Subsection (a) of this section in such amounts as will be sufficient to meet the budgetary needs of the center, within the statutory limits herein fixed. (S.B.No.573, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3337, ch. 1024, Art. 2, § 4, eff. Sept. 1, 1971.

[Sections 86.24 to 86.50 reserved for expansion]

SUBCHAPTER C. REAL ESTATE RESEARCH CENTER

Subchapter C consisting of sections 86.51 to 86.55 was added to Chapter 86 by Acts 1971, 62nd Leg., p. 3342, ch. 1024, Art. 2, § 12, effective Sept. 1, 1971.

§ 86.51. Real Estate Research Center

There is established at Texas A & M University, in the College of Agriculture, a Real Estate Research Center, hereinafter referred to as the center. The operating budget, staffing, and activities of the center shall be approved by the board of directors of The Texas A & M University System.

Added by Acts 1971, 62nd Leg., p. 3342, ch. 1024, Art. 2, § 12, eff. Sept. 1, 1971.

§ 86.52. Real Estate Research Advisory Committee

(a) The Real Estate Research Advisory Committee is created.

(b) The advisory committee is composed of nine persons appointed by the governor, without senate confirmation, with the following representation:

(1) six members shall be real estate brokers, licensed as such for at least five years preceding the date of their appointment, who have been recommended by the Texas Real Estate Commission and are representative of each of the following real estate specialties:

(A) one member shall be principally engaged in real estate brokerage;

(B) one member shall be principally engaged in real estate financing;

(C) one member shall be principally engaged in the ownership or construction of real estate improvements;

(D) one member shall be principally engaged in the ownership, development or management of residential properties;

(E) one member shall be principally engaged in the ownership, development or management of commercial properties; and

(F) one member shall be principally engaged in the ownership, development or management of industrial properties; and

(2) three members shall be representatives of the general public.

(c) Except for the initial appointees, members of the advisory committee hold office for staggered terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year. In making the initial appointments, the governor shall designate three members, including two representatives of the real estate industry and one representative of the general public, for terms expiring in 1973, three for terms expiring in 1975, and three for terms expiring in 1977. Any vacancy shall be filled by appointment for the unexpired portion of the term. Each member shall serve until his successor is qualified.

(d) The chairman of the Texas Real Estate Commission, or a member of the commission designated by him, shall serve as an ex officio, nonvoting member of the advisory committee.

(e) The committee shall elect a chairman from its membership, and he shall serve for an annual term.

(f) The first meeting of the advisory committee shall be called by the president of Texas A & M University or his designated representative. The committee shall meet not less than semiannually, and in addition on call of its chairman, or on petition of any six of its members, or on call of the president of Texas A & M University or his designated representative.

(g) The advisory committee shall review and approve proposals to be submitted to the board of directors of The Texas A & M University System relating to staffing and general policies including priority ranking of research studies and educational and other studies.

(h) The president of Texas A & M University or his designated representative shall submit to the advisory committee in advance of each fiscal year a budget for expenditures of all funds provided for the center in a form that is related to the proposed schedule of activities for the review and approval of the advisory committee. The proposed budget approved by the advisory committee shall be forwarded with the comments of the committee to the board of directors of The Texas A & M University System prior to its action on the proposed budget, and the board of directors of The Texas A & M University System shall not authorize any expenditure that has not had the prior approval of the advisory committee.

(i) The president of Texas A & M University or his designated representative shall submit to the advisory committee for its review and approval a research agenda at the beginning of each fiscal year and shall continuously inform the advisory committee of changes in its substance and scheduling.

Added by Acts 1971, 62nd Leg., p. 3342, ch. 1024, Art. 2, § 12, eff. Sept. 1, 1971.

§ 86.53. Purposes, Objectives, and Duties of the Center

The purposes, objectives, and duties of the center are as follows:

(1) to conduct studies in all areas that relate directly or indirectly to real estate and/or urban or rural economics and to publish and disseminate the findings and results of the studies;

(2) to assist the teaching program in real estate offered by the colleges and universities in the State of Texas when requested to do so, and to award scholarships and establish real estate chairs when funds are available;

(3) to supply material to the Texas Real Estate Commission for the preparation of the examinations for real estate salesmen and brokers, if requested to do so by the commission;

(4) to develop and from time to time revise and update materials for use in the extension courses in real estate offered by the universities and colleges in the State of Texas when requested to do so;

(5) to assist the Texas Real Estate Commission in developing standards for the accreditation of vocational schools and other teach-

ing agencies giving courses in the field of real estate, and standards for the approval of courses in the field of real estate, as and when requested to do so by the commission;

(6) to make studies of and recommend changes in state statutes and municipal ordinances, providing however that no staff member of the center shall directly contact legislators or locally elected officials concerning the recommendations except to provide a factual response to an inquiry as to the method of research or nature of the findings;

(7) provided and except, however, that those conducting such research and studies shall periodically review their progress with the advisory committee or its designated representative, and the results of any research project, or study, shall not be published or disseminated until it has been reviewed and approved in writing by the advisory committee or its designated representative.

Added by Acts 1971, 62nd Leg., p. 3343, ch. 1024, Art. 2, § 12, eff. Sept. 1, 1971.

§ 86.54. Publication Charges; Gifts and Grants

The center may make a charge for its publications and may receive gifts and grants from foundations, individuals, and other sources for the benefit of the research center.

Added by Acts 1971, 62nd Leg., p. 3344, ch. 1024, Art. 2, § 12, eff. Sept. 1, 1971.

§ 86.55. Annual Report

A report of the activities and accomplishments of the center shall be published annually. ([Secs. 1-5], S.B.No.338, 62nd Legis., Reg.Sess., 1971.)
Added by Acts 1971, 62nd Leg., p. 3344, ch. 1024, Art. 2, § 12, eff. Sept. 1, 1971.

CHAPTER 87. OTHER ACADEMIC INSTITUTIONS IN THE TEXAS A & M UNIVERSITY SYSTEM

SUBCHAPTER A. TARLETON STATE COLLEGE

Section

- 87.001. Tarleton State College.
- 87.002. Student Loan Fund.
- 87.003. Eminent Domain.

[Sections 87.004 to 87.100 reserved for expansion]

SUBCHAPTER B. THE PRAIRIE VIEW AGRICULTURAL AND MECHANICAL COLLEGE OF TEXAS

- 87.101. The Prairie View Agricultural and Mechanical College of Texas.
- 87.102. Governing Board.

[Sections 87.103 to 87.200 reserved for expansion]

SUBCHAPTER C. THE TEXAS MARITIME ACADEMY

- 87.201. Texas Maritime Academy.
- 87.202. General Powers and Duties.
- 87.203. Admission, Discipline, Instruction.
- 87.204. Funds, Properties, Agreements.
- 87.205. Fees and Charges.
- 87.206. Instruction in Field of Marine Resources.

SUBCHAPTER A. TARLETON STATE COLLEGE**Section 87.001. Tarleton State College**

Tarleton State College is a coeducational institution of higher education located in the city of Stephenville. It is under the management and control of the board of directors of The Texas A & M University System. (R.S. Art. 2616; V.A.C.S. Art. 2616a.)

§ 87.002. Student Loan Fund

The sum of \$75,000 donated by the citizenship of Stephenville and Erath County shall be used by the board of directors as a student loan fund to be loaned to students who cannot otherwise attend the college, at a rate of interest not to exceed five percent per year, on any terms and conditions the board may deem advisable. (R.S. Art. 2617.)

§ 87.003. Eminent Domain

The board has the power of eminent domain to acquire for the use of the college any land that may be necessary or proper for carrying out its purposes. (R.S. Art. 2619.)

[Sections 87.004 to 87.100 reserved for expansion]

SUBCHAPTER B. THE PRAIRIE VIEW AGRICULTURAL AND MECHANICAL COLLEGE OF TEXAS**§ 87.101. The Prairie View Agricultural and Mechanical College of Texas**

The Prairie View Agricultural and Mechanical College of Texas is a coeducational institution of higher education located at Prairie View, in Waller County. (V.A.C.S. Art. 2643b, Sec. 2 (part).)

§ 87.102. Governing Board

The college is under the control and supervision of the board of directors of The Texas A & M University System. The board has the same powers and duties with respect to this college as are conferred on it by statute with respect to Texas A & M University. (R.S. Art. 2638; V.A.C.S. Art. 2643b, Sec. 2 (part).)

[Sections 87.103 to 87.200 reserved for expansion]

SUBCHAPTER C. THE TEXAS MARITIME ACADEMY**§ 87.201. Texas Maritime Academy**

The Texas Maritime Academy, located in Galveston, is a school for the purpose of instructing boys in the practice of seamanship, ship construction, naval architecture, wireless telegraph, engineering, and the science of navigation. It is under the management and control of the board of directors of The Texas A & M University System. (V.A.C.S. Art. 2615b, Secs. 1, 2 (part).)

§ 87.202. General Powers and Duties

The board shall:

- (1) employ a superintendent of the academy, who shall also be commander;
- (2) employ instructors and the necessary employees and determine their number, duties, and compensation;
- (3) fix the terms and conditions under which pupils shall be received, instructed, and graduated;

(4) arrange cruises to and from the harbors of Houston, Galveston, Beaumont, Port Arthur, and Corpus Christi; and

(5) establish rules and regulations for the proper management of the academy. (V.A.C.S. Art. 2615b, Sec. 3.)

§ 87.203. Admission, Discipline, Instruction

The board shall prescribe the standards of admission and admit the applicants who meet the requirements. Students shall be subject to the regulations of conduct and discipline prescribed by the board. The board shall make provision for the proper instruction, for courses of study, and for the care, supervision, and management of the school; and the board is vested with all powers necessary for the proper discharge of these duties. (V.A.C.S. Art. 2615b, Sec. 2 (part).)

§ 87.204. Funds, Properties, Agreements

The board may receive any funds or property that may be subscribed, loaned, or bequeathed for the organization or maintenance of the academy and shall execute all necessary agreements for the faithful application of the funds or property. (V.A.C.S. Art. 2615b, Sec. 2 (part).)

§ 87.205. Fees and Charges

The fact that provision for the establishment of this academy is for the primary purpose of giving students practical and technical instruction in the arts and sciences relating to the foregoing subjects, and the further fact that training in these fields will lead to immediate and remunerative employment for those who have finished the prescribed courses, make it necessary that larger fees be charged those students who enter the academy than is now paid by students enrolled in state-supported institutions of higher education. Therefore, the provisions of Subchapter E, Chapter 54 of this code, do not apply to the students enrolled in the academy. The board is specifically charged with the duty of assessing such fees and charges against the students who enter the academy as may be necessary to provide for the maintenance and support of the academy. (V.A.C.S. Art. 2615b, Sec. 4.)

§ 87.206. Instruction in Field of Marine Resources

In addition to the instruction authorized in Section 87.201 of this code, the school or any other school created under this subchapter may provide instruction for all students in educational programs related to the general field of marine resources. Such courses must have the prior approval of the Coordinating Board, Texas College and University System. (S.B. No.942, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3348, ch. 1024, Art. 2, § 22, eff. Sept. 1, 1971.

**CHAPTER 88. AGENCIES AND SERVICES OF THE TEXAS
A & M UNIVERSITY SYSTEM****SUBCHAPTER A. GENERAL PROVISIONS****Section**

88.001. Agencies and Services.

[Sections 88.002 to 88.100 reserved for expansion]

SUBCHAPTER B. THE TEXAS FOREST SERVICE

- 88.101. State Forester: Appointment, Qualifications.
- 88.102. General Duties.
- 88.103. Enforcement; Appointment of Peace Officers.
- 88.104. Authority to Enter Private Land.
- 88.105. Cooperation with Persons and Agencies.
- 88.106. Cooperation with Federal Agencies.
- 88.107. Forest Land: Acquisition by Gift or Purchase.
- 88.108. Acquisition of Land for Forestry Purposes; Disposition.
- 88.109. Use of Certain Department of Corrections Land for Reforestation.
- 88.110. Purchase of Land for Seedling Nursery.
- 88.111. Forest Land Acquired by State under Tax Sale.
- 88.112. South Central Interstate Forest Fire Protection Compact.
- 88.113. Compact Administrator.
- 88.114. Advisory Committee.
- 88.115. Legislative Intent.
- 88.116. Text of Compact.

[Sections 88.117 to 88.200 reserved for expansion]

**SUBCHAPTER C. THE TEXAS AGRICULTURAL
EXPERIMENT STATION**

- 88.201. Purposes.
- 88.202. Main State Experiment Station.
- 88.203. Substations.
- 88.204. Sale of Stations.
- 88.205. Sale of Crops.
- 88.206. Donations; Leases.
- 88.207. Expenses; Per Diem.
- 88.208. Inspections.
- 88.209. Director.
- 88.210. Reports.
- 88.211. Bulletin.
- 88.212. Disbursements.

SUBCHAPTER A. GENERAL PROVISIONS**Section 88.001. Agencies and Services**

The agencies and services of the Texas A & M University System are:

- (1) the Texas Forest Service (see Subchapter B of this chapter);
- (2) the Texas Agricultural Experiment Station (see Subchapter C of this chapter);

(3) the Texas Agricultural Extension Service, established by action of the board of directors;

(4) the Texas Engineering Experiment Station, established by action of the board of directors;

(5) the Texas Engineering Extension Service, established by action of the board of directors; and

(6) other agencies and services that may be established by law or by action of the board of directors. (New.)

[Sections 88.002 to 88.100 reserved for expansion].

SUBCHAPTER B. THE TEXAS FOREST SERVICE

§ 88.101. State Forester: Appointment, Qualifications

The board of directors shall appoint a state forester, who shall be a technically trained forester with not less than two years of experience in professional forestry work. The state forester is the director of the Texas Forest Service. (R.S. Art. 2613, subd. 10 (part).)

§ 88.102. General Duties

Under the general supervision of the board, the state forester shall:

(1) assume direction of all forest interests and all matters pertaining to forestry within the jurisdiction of this state;

(2) subject to the approval and confirmation of the board, appoint the assistants and employees necessary in executing the duties of his office and the purposes of the board, their compensation to be fixed by the board;

(3) take any action deemed necessary by the board to prevent and extinguish forest fires;

(4) enforce all laws pertaining to the protection of forests and woodlands and prosecute violations of those laws;

(5) collect data relating to forest conditions; and

(6) prepare for the board an annual report stating the progress and condition of state forestry work and recommending plans for improving the state system of forest protection, management, and replacement. (R. S. Art. 2613, subd. 10 (part).)

§ 88.103. Enforcement; Appointment of Peace Officers

When necessary to execute his enforcement duties, the state forester may appoint as peace officers two district foresters, four division patrolmen, and four patrolmen, whose powers shall not exceed the enforcement powers of the state forester. The necessity of these appointments shall be certified to and approved by the board. (R.S. Art. 2613, subd. 10a.)

§ 88.104. Authority to Enter Private Land

Authority is hereby granted to every employee of the Texas Forest Service and any outside labor or assistance the employee deems necessary to enter upon any privately-owned land in the performance of fire suppression duties which are by state law under the direction of the state forester. These entries on privately-owned land may be made whenever it is necessary to investigate forest and grass fires and to ascertain whether they are burning uncontrolled, and whenever it is necessary to suppress forest and grass fires that are known to be burning uncontrolled. (V.A.C.S. Art. 2613b—1.)

§ 88.105. Cooperation with Persons and Agencies

On request, under the sanction of the board, and whenever he deems it essential to the best interests of the people of the state, the state forester

shall cooperate with counties, towns, corporations, or individuals in preparing plans for the protection, management, and replacement of trees, woodlots, and timber tracts, under an agreement that the parties obtaining the assistance pay at least the field expenses of the men employed in preparing the plans. The board may cooperate with the National Forest Service under terms it deems desirable. (R.S. Art. 2613, subd. 10 (part).)

§ 88.106. Cooperation with Federal Agencies

The state forester, under the general supervision of the board, may cooperate on forestry projects with the National Forest Service and other federal agencies; and, subject to the authorization of the board, he may 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 the projects are developed with the aid of loans from a federal agency and when the supervision by the state is required by federal statute or is deemed necessary by the federal agency. (V.A.C.S. Art. 2613b.)

§ 88.107. Forest Land: Acquisition by Gift or Purchase

(a) On the recommendation of the board, the governor may accept gifts of land to the state to be held, protected, and administered by the board as state forests and to be used to demonstrate the practical utility of timber culture and water conservation and for game preserves. The gifts may be on terms and conditions agreed upon between the grantors of the property and the board.

(b) The board may purchase lands in the name of the state suitable chiefly for the production of timber as state forests, using for that purpose any special appropriation.

(c) All conveyances of property, by gift or otherwise, shall be submitted to the attorney general for approval as to form. (R.S. Art. 2613, subd. 11.)

§ 88.108. Acquisition of Land for Forestry Purposes; Disposition

(a) The board may accept gifts, donations, or contributions of land suitable for forestry purposes and may enter into agreements with the federal government or other agencies for acquiring by lease, purchase, or otherwise any land that in the judgment of the board is desirable for state forests.

(b) When land is acquired or leased under this section, the board may make expenditures, from any funds not otherwise obligated, for its management, development, and utilization. The board may sell or otherwise dispose of products from the land and may make rules and regulations that may be necessary to carry out the purposes of this section.

(c) All revenue derived from land now owned or later acquired under the provisions of this section shall be segregated by the board for use in the acquisition, management, development, and use of the land until all obligations incurred have been paid in full. Thereafter, net profits accruing from the administration of the land shall be applicable for the purposes that the legislature may prescribe.

(d) Obligations for the acquisition of land incurred by the board under the authority of this section shall be paid solely and exclusively from revenue derived from the land and shall not impose any liability on the general credit and taxing power of the state.

(e) The board may sell, exchange, or lease state forest land under its jurisdiction when in its judgment it is advantageous to the state to do so

in the highest orderly development and management of state forests. However, no sale or exchange of any such land belonging to the state or the university shall be made until the sale or exchange is authorized by the legislature. The sale, lease or exchange shall not be contrary to the terms of any contract into which it has entered. (V.A.C.S. Art. 2613a—2.)

§ 88.109. Use of Certain Department of Corrections Land for Reforestation

The several tracts of land in Cherokee County near Maydelle, consisting of approximately 2,150 acres, owned by the Texas Department of Corrections, is set aside for reforestation purposes to be used by Texas A & M University to demonstrate reforestation work. (V.A.C.S. Art. 2613a.)

§ 88.110. Purchase of Land for Seedling Nursery

The board may acquire by purchase in the name of the State of Texas for the use and benefit of the Texas Forest Service, and may improve, a sufficient quantity of land suitable for the operation of a forest tree seedling nursery in the reforestation program of the Texas Forest Service and for the production of other forest products. However, not more than 400 acres of land may be purchased under this section; and the selling price of seedlings produced on the land, as far as practical, shall represent the cost of production plus at least 10 percent. (V.A.C.S. Art. 2613a—8.)

§ 88.111. Forest Land Acquired by State under Tax Sale

When pine forest land is sold to the state for the payment of taxes, interest, penalty, and costs adjudged against the land, as provided in Article 7328, Revised Civil Statutes of Texas, 1925, as amended, and not redeemed or resold as provided in Article 7328, the land shall be withdrawn from the market and shall be held, protected, and administered by the board as state forest; and the board may manage, use, and improve the pine forest land as fully and to the same extent as in the case of other forest land held by it in accordance with the law. Forest land, as used in this section, includes all land on which is growing pine timber of any material value and all cutover pine timberland which may reasonably be expected to produce, by reason of natural or other methods of reforestation, another growth of pine timber of any material value. (R.S. Art. 2613, subd. 12.)

§ 88.112. South Central Interstate Forest Fire Protection Compact

The South Central Interstate Forest Fire Protection Compact has been ratified by the states of Texas, Arkansas, Louisiana, Mississippi, and Oklahoma. The text of the compact is set out in Section 88.116 of this code, and an authenticated copy is on file in the office of the secretary of state. (V.A.C.S. Art. 2613c, Sec. 1 (part), Sec. 2. See also Arkansas—Ark.Stats.1947 (1953 Supp.) Secs. 9—734 to 9—736; Louisiana—LSA—R. S. 56:1496; Mississippi—Code 1942 (1954 Supp.) Secs. 6046—41 to 6046—45; Oklahoma—74 Okl.St. Ann. Secs. 354.1 to 354.5.)

§ 88.113. Compact Administrator

The director of the Texas Forest Service shall act as compact administrator for the State of Texas and represent Texas in the South Central Interstate Forest Fire Protection Compact. (V.A.C.S. Art. 2613c, Sec. 3.)

§ 88.114. Advisory Committee

The advisory committee referred to in Article III of the compact shall be composed of four members selected as follows: One member shall be named from the membership of the Senate of the State of Texas by the Lieutenant Governor; one member shall be named from the membership of the House of Representatives of the State of Texas by the Speaker; and two members shall be appointed by the governor, one of whom shall be selected from among the persons who comprise the board of directors of The Texas A & M University System, and one of whom shall be a person associated with forestry or a forest products industry. (V.A.C.S. Art. 2613c, Sec. 4.)

§ 88.115. Legislative Intent

It is the intent of the Legislature of the State of Texas, in ratifying the South Central Interstate Forest Fire Protection Compact, that this compact is and shall be a joint program of the member states and that representatives of the United States government shall participate in compact meetings or in other activities under the compact only in the manner and to the extent authorized by the representatives of the member states, appointed pursuant to the terms of this compact. (V.A.C.S. Art. 2613c, Sec. 4a.)

§ 88.116. Text of Compact

The South Central Interstate Forest Fire Protection Compact reads as follows:

SOUTH CENTRAL INTERSTATE FOREST FIRE
PROTECTION COMPACT

Article I.

The purpose of this compact is to promote effective prevention and control of forest fires in the South Central region of the United States by the development of integrated forest fire plans, by the maintenance of adequate forest fire fighting services by the member States, by providing for mutual aid in fighting forest fires among the compacting States of the region and with States which are party to other Regional Forest Fire Protection compacts or agreements, and for more adequate forest development.

Article II.

This compact shall become operative immediately as to those States ratifying it whenever any two or more of the States of Arkansas, Louisiana, Mississippi, Oklahoma, and Texas which are contiguous have ratified it and Congress has given consent thereto. Any State not mentioned in this article which is contiguous with any member State may become a party to this compact, subject to approval by the legislature of each of the member States.

Article III.

In each State, the State Forester or officer holding the equivalent position who is responsible for forest fire control shall act as compact administrator for that State and shall consult with like officials of the other member States and shall implement cooperation between such States in forest fire prevention and control.

The compact administrators of the member States shall organize to coordinate the services of the member States and provide administrative integration in carrying out the purposes of this compact.

There shall be established an advisory committee of legislators, representatives of the Board of Directors of the Texas Agricultural and Mechanical College System, and forestry or forest products industries representatives, which shall meet from time to time with the compact administrators. Each member State shall name one member of the Senate and one member of the House of Representatives, and the Governor of each member State shall appoint one representative who shall be associated with forestry or forest products industries, and a member of the Board of Directors of the Texas Agricultural and Mechanical College System, to comprise the membership of the advisory committee. Action shall be taken by a majority of the compacting States, and each State shall be entitled to one vote.

The compact administrators shall formulate and, in accordance with need, from time to time, revise a regional forest fire plan for the member States.

It shall be the duty of each member State to formulate and put in effect a forest fire plan for that State and take such measures as may be necessary to integrate such forest fire plan with the regional forest fire plan formulated by the compact administrators.

Article IV.

Whenever the State forest fire control agency of a member State requests aid from the State forest fire control agency of any other member State in combating, controlling or preventing forest fires, it shall be the duty of the State forest fire control agency of that State to render all possible aid to the requesting agency which is consonant with the maintenance of protection at home.

Article V.

Whenever the forces of any member State are rendering outside aid pursuant to the request of another member State under this compact, the employees of such State shall, under the direction of the officers of the State to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges and immunities as comparable employees of the State to which they are rendering aid.

No member State or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith; provided, that nothing herein shall be construed as relieving any person from liability for his own negligent act or omission, or as imposing liability for such negligent act or omission upon any State.

All liability, except as otherwise provided herein, that may arise either under the laws of the requesting State or under the laws of the aiding State or under the laws of a third State on account of or in connection with a request for aid, shall be assumed and borne by the requesting State.

Any member State rendering outside aid pursuant to this compact shall be reimbursed by the member State receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of employees and equipment incurred in connection with such request; provided, that nothing herein contained shall prevent any assisting member State from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such service to the receiving member State without charge or cost.

Each member State shall provide for the payment of compensation and death benefits to injured employees and the representatives of deceased employees in case employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such State.

For the purposes of this compact the term "employee" shall include any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding State under the laws thereof.

The compact administrators shall formulate procedures for claims and reimbursement under the provisions of this article, in accordance with the laws of the member States.

Article VI.

Ratification of this compact shall not be construed to affect any existing statute so as to authorize or permit curtailment or diminution of the forest fire fighting forces, equipment, services or facilities of any member State.

Nothing in this compact shall be construed to limit or restrict the powers of any State ratifying the same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the enactment or enforcement of State laws, rules or regulations intended to aid in such prevention, control and extinguishment in such State.

Nothing in this compact shall be construed to affect any existing or future cooperative relationship or arrangement between the United States Forest Service and a member State or States.

Article VII.

The compact administrators may request the United States Forest Service to act as the primary research and coordinating agency of the South Central Interstate Forest Fire Protection Compact in cooperation with the appropriate agencies in each State, and the United States Forest Service may accept the initial responsibility in preparing and presenting to the compact administrators its recommendations with respect to the regional fire plan. Representatives of the United States Forest Service may attend meetings of the compact administrators.

Article VIII.

The provisions of Articles IV and V of this compact which relate to mutual aid in combating, controlling or preventing forest fires shall be operative as between any State party to this compact and any other State which is party to a regional forest fire protection compact in another region; provided, that the Legislature of such other State shall have given its assent to such mutual aid provisions of this compact.

Article IX.

This compact shall continue in force and remain binding on each State ratifying it until the legislature or the Governor of such State takes action to withdraw therefrom. Such action shall not be effective until six months after notice thereof has been sent by the chief executive of the State desiring to withdraw to the chief executives of all States then parties to the compact. (V.A.C.S. Art. 2613c, Sec. 1 (part).)

[Sections 88.117 to 88.200 reserved for expansion]

**SUBCHAPTER C. THE TEXAS AGRICULTURAL
EXPERIMENT STATION**

§ 88.201. Purposes

There shall be established, at places in the state the board of directors deems proper, experiment stations for the purpose of making experiments and conducting investigations in the planting and growing of agricultural and horticultural crops and soils, and the breeding, feeding and fattening of livestock for slaughter. (R.S. Art. 136 (part).)

§ 88.202. Main State Experiment Station

The experiment station located at College Station, which is in part supported by the federal government, shall remain there as a permanent institution. It shall be known as the Main State Experiment Station and shall be under the supervision of the board of directors. The board may accept from the federal government any aid in its support that may be provided by Congress. (R.S. Art. 137 (part).)

§ 88.203. Substations

(a) The board may:

(1) establish experiment substations at places in this state it deems proper;

(2) abandon or discontinue any substation which may become undesirable for experiment purposes, and if deemed necessary establish others in their stead at places it deems advisable; and

(3) sell any land or other state property used in the operation of an experiment station when abandoned and apply the proceeds of the sale to the purchase of other land and property for the establishment of experiment stations.

(b) The board shall exercise a general supervision and direction over substations established under this subchapter. (R.S. Arts. 137 (part), 138, 139.)

§ 88.204. Sale of Stations

If property used in the operation of a station is sold, the title to the property shall not pass from this state until a deed of conveyance is made to the purchaser, duly signed by the governor and attested by the secretary of state under his official seal. All funds received from the sale of station lands or property shall be deposited in the state treasury and shall be paid out in accordance with the provisions of this subchapter. (R.S. Art. 140.)

§ 88.205. Sale of Crops

Proceeds from the sale, barter, or exchange of crops raised on any experiment station shall be applied to defray the expenses of operating the station. (R.S. Art. 136 (part).)

§ 88.206. Donations; Leases

(a) The board may accept and receive donations of money and property when given to be used in connection with any experiment work authorized by this subchapter.

(b) In the location of any experiment station, the board may take into consideration and receive any donation of money, land, or other property to be used in the operation, equipment, or management of the station; and for experiment work may lease any land that in its judgment may be necessary for any of the purposes named in this subchapter. (R.S. Arts. 142, 143.)

§ 88.207. Expenses; Per Diem

The necessary traveling expenses of the members of the board and those of the director and his assistants shall be paid out of the funds appropriated by this state for the maintenance and support of the experiment stations. In addition to actual traveling expenses, each member of the board, when traveling on the official business of the stations, shall be paid \$5 per day while actually engaged in the discharge of his duties. (R.S. Art. 145.)

§ 88.208. Inspections

The board shall visit the stations once a year and shall make criticisms to the director and his assistants that it deems expedient and necessary. (R.S. Art. 144.)

§ 88.209. Director

(a) The main station and the substations are under the supervision, control, management, and direction of the director of the Texas Agricultural Experiment Station at College Station. The director shall reside at College Station.

(b) The board may pay a part of the director's salary from money appropriated by the Legislature for the maintenance and support of the experiment stations in the proportion that in its judgment is just and proper, taking into consideration the division of his time between the main station and the substations and the sum appropriated for the purpose by the federal government.

(c) The director may employ the assistants and labor and may purchase the livestock, farming implements, tools, seed, and other materials and supplies that he deems necessary for the successful management of any or all of the experiment stations, subject to the approval of the board. (R.S. Art. 146.)

§ 88.210. Reports

On the first day of each month, the director shall make a complete report to the board showing receipts and disbursements, the source of the receipts, and for what purpose they were disbursed; and on or before January 1, of each year, he shall make a full and detailed report to the board of the operation of the stations, including a statement of receipts and expenditures for the entire year. The annual report shall be transmitted to the governor with any additional report that the board deems proper. (R.S. Art. 147.)

§ 88.211. Bulletin

The director shall periodically issue and circulate among the farmers and livestock raisers of Texas printed bulletins showing the results of the experiments and the results accomplished and the progress made in the improvement of the agricultural and livestock interests of this state. The bulletins shall be mailed to all persons who desire them. The director shall invite the cooperation of persons engaged in those industries and shall give them advice when requested with reference to the management and cultivation of their farms and the care, management, and feeding of their stock. (R.S. Art. 148.)

§ 88.212. Disbursements

Before warrants are issued by the comptroller in payment of state experiment station accounts, vouchers covering them shall be audited and signed by the director or an assistant designated by him, in writing, for that purpose, and also by a member of the board. (R.S. Art. 149.)

**SUBTITLE E. THE STATE SENIOR COLLEGE
SYSTEM**

**CHAPTER 95. ADMINISTRATION OF THE STATE SENIOR
COLLEGE SYSTEM**

SUBCHAPTER A. ADMINISTRATIVE PROVISIONS

Section

- 95.01. Board of Regents.
 - 95.02. Board Members: Appointment, Qualifications, Terms.
 - 95.03. Board Meetings.
 - 95.04. Per Diem; Expenses.
- [Sections 95.05 to 95.20 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

- 95.21. General Responsibilities of Board.
- 95.22. Inspection of Senior Colleges.
- 95.23. Local Committees of Board.
- 95.24. Admission; Diplomas and Certificates.
- 95.25. Teaching Certificates.
- 95.26. Incidental Fees.
- 95.27. Annual Report to Governor.
- 95.28. Disbursement of Funds.
- 95.29. Financial Statements and Recommendations.
- 95.30. Eminent Domain.
- 95.31. Acquisition of Land; Procedures.
- 95.32. Dormitories.

SUBCHAPTER A. ADMINISTRATIVE PROVISIONS

Section 95.01. Board of Regents

The organization, control, and management of the state senior college system is vested in the Board of Regents, State Senior Colleges. (R.S. Art. 2644; V.A.C.S. Art. 2644a, Sec. 1.)

§ 95.02. Board Members: Appointment, Qualifications, Terms

The board is composed of nine members appointed by the governor with the advice and consent of the senate. The members hold office for terms of six years, with the terms of three members expiring every two years. Each member of the board shall be a qualified voter; and the members shall be selected from different portions of the state. (R.S. Art. 2647 (part); Art. 2907 (part).)

§ 95.03. Board Meetings

The board shall meet each year at Austin, on the first Monday in May, or as soon thereafter as practicable, for the transaction of business pertaining to the affairs of the state senior colleges. The board shall also meet at other times and places deemed necessary for the welfare of the colleges by a majority of the members. (R.S. Art. 2647 (part).)

§ 95.04. Per Diem; Expenses

Each member of the board shall receive \$10 per day for the time spent attending the meetings of the board, in addition to reimbursement for

traveling expenses. Payment shall be made out of the appropriation for the support and maintenance of the state senior colleges as the board may direct. (R.S. Art. 2647 (part).)

[Sections 95.05 to 95.20 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

§ 95.21. General Responsibilities of Board

The board is responsible for the general control and management of the state senior colleges and may erect, equip, and repair buildings; purchase libraries, furniture, apparatus, fuel, and other necessary supplies; employ and discharge presidents or principals, teachers, treasurers, and other employees; and fix the salaries of the persons employed. The president of each state senior college shall nominate annually to the board the professors, teachers, officials, and assistants who, in his opinion, will promote the best interests of the institution. (R.S. Art. 2647 (part).)

§ 95.22. Inspection of Senior Colleges

The board shall visit each college under its control and management at least once during each scholastic year, inspect its work, and gather information which will enable the board to perform its duties intelligently and effectively. (R.S. Art. 2647 (part).)

§ 95.23. Local Committees of Board

At least once a year each local committee of the board shall meet on the campus of the institution for which the local committee is responsible for reporting to the board. At the meeting, the local committee shall confer with the institution's officials and carefully examine all phases of the operations of the institution. (V.A.C.S. Art. 2644a, Sec. 2.)

§ 95.24. Admission; Diplomas and Certificates

The board may determine the conditions on which students may be admitted to the colleges, the grades of certificates issued, the conditions for the award of certificates and diplomas, and the authority by which certificates and diplomas are signed. (R.S. Art. 2647 (part).)

§ 95.25. Teaching Certificates

Diplomas and teachers certificates of each of the state senior colleges authorize the holders to teach in the public schools. (R.S. Art. 2646.)

§ 95.26. Incidental Fees

The board may fix the rate of incidental fees to be paid by students attending the colleges and may make rules for the collection of the fees and for the disbursement of the funds collected. (R.S. Art. 2647 (part).)

§ 95.27. Annual Report to Governor

The board shall make an annual report to the governor showing the general condition of the affairs of each senior college and making recommendations for its future management and welfare. (R.S. Art. 2647 (part).)

§ 95.28. Disbursement of Funds

All appropriations made by the legislature for the support and maintenance of the state senior colleges, for the purchase of land or buildings

for the colleges, for the erection or repair of buildings, for the purchase of apparatus, libraries, or equipment of any kind, or for any other improvement of any kind shall be disbursed under the direction and authority of the board. The board may formulate rules for the general control and management of the schools, for the auditing and approving of accounts, and for the issuance of vouchers and warrants which are necessary for the efficient administration of the schools. (R.S. Art. 2647 (part).)

§ 95.29. Financial Statements and Recommendations

The board shall file in each house of the legislature at each of its regular biennial sessions a statement of the receipts and expenditures of each of the senior colleges, showing the amount of salaries paid to the various teachers, contingent expenses, expenditures for improvements, and other items of expense. The board shall also file its recommendations for appropriations for the senior colleges. (R.S. Art. 2647 (part).)

§ 95.30. Eminent Domain

The board has the power of eminent domain to acquire for the use of the state senior colleges the lands necessary and proper for carrying out their purposes, in the manner prescribed in Title 52, Revised Civil Statutes of Texas, 1925, as amended. The taking of the land is for the use of the state. The board shall not be required to deposit a bond or the amount equal to the award of damages by the commissioners as provided in Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended. (V.A.C.S. Art. 2647b.)

§ 95.31. Acquisition of Land; Procedures

(a) The board may acquire land needed for the proper operation of a senior college in the county in which the senior college is located. The acquisition may be by purchase or by condemnation.

(b) If the board and the landowner cannot agree on the sale and purchase of the land, the board may request the attorney general to proceed to condemn the land as provided by law. In lieu of a suit, the parties may select by agreement three persons to ascertain the value of the land under their oaths and the direction of the court. The finding and decision of the jury, court, or persons selected is in all cases final, except that the parties may appeal as in other civil cases.

(c) When the value of the land has been ascertained and the court is satisfied with the valuation, the court shall enter a decree vesting the title of the land in the state for the use and benefit of the senior college for whose benefit the land is needed. No decree shall be entered until the value of the land as ascertained, together with all reasonable cost and expense of the owner in attending the proceeding, is paid to him or into court for his benefit and subject to his order. The costs and expenses, including reasonable attorneys' fees, shall be ascertained by the court in which the proceeding is held. (R.S. Art. 2647 (part).)

§ 95.32. Dormitories

(a) The board may enter into contracts with persons, firms, or corporations for the erection of dormitories at any senior college, and may purchase or lease lands and other appurtenances for the construction of the dormitories, provided that the state incurs no liability for the buildings or the sites.

(b) The board may make contracts with reference to the collection and disposition of the revenue derived from the dormitories in the acquisition, management, and maintenance of the buildings.

(c) The board may adopt rules and regulations it deems reasonable requiring any class or classes of students to reside in the dormitories or other buildings. Absolute management and control of the dormitories constructed is vested in the board. (V.A.C.S. Art. 2647a.)

CHAPTER 96. INSTITUTIONS OF THE STATE SENIOR COLLEGE SYSTEM

SUBCHAPTER A. SUL ROSS STATE UNIVERSITY

Section

96.01. Sul Ross State University.

[Sections 96.02 to 96.20 reserved for expansion]

SUBCHAPTER B. ANGELO STATE UNIVERSITY

96.21. Angelo State University.

96.22. Donations, Gifts, Endowments.

96.23. Management and Control of Lands; Conveyances and Leases.

96.24. Military Training.

96.25. Obligations and Benefits of General Laws.

[Sections 96.26 to 96.40 reserved for expansion]

SUBCHAPTER C. SOUTHWEST TEXAS STATE UNIVERSITY

96.41. Southwest Texas State University.

[Sections 96.42 to 96.60 reserved for expansion]

SUBCHAPTER D. SAM HOUSTON STATE UNIVERSITY

96.61. Sam Houston State University.

96.62. University Airport.

96.63. Josey School of Vocational Education.

SUBCHAPTER A. SUL ROSS STATE UNIVERSITY

Section 96.01. Sul Ross State University

Sul Ross State University is a coeducational institution of higher education located in the city of Alpine. It is under the management and control of the Board of Regents, State Senior Colleges. (New.)

[Sections 96.02 to 96.20 reserved for expansion]

SUBCHAPTER B. ANGELO STATE UNIVERSITY

§ 96.21 Angelo State University

Angelo State University is a coeducational institution of higher education located in the city of San Angelo. It is under the management and control of the Board of Regents, State Senior Colleges. (V.A.C.S. Art. 2654.2, Sec. 1; Art. 2654.3.)

§ 96.22. Donations, Gifts, Endowments

The board may accept donations, gifts, and endowments for the university, to be held in trust and administered by the board for the purposes and under the directions, limitations, and provisions declared in writing in the donation, gift, or endowment, not inconsistent with the laws of the state or with the objectives and proper management of the university. (V.A.C.S. Art. 2654.2, Sec. 5.)

§ 96.23. Management and Control of Lands; Conveyances and Leases

(a) The board is vested with the sole and exclusive management and control of all the lands, including lands with oil and gas and other minerals, transferred to the university by the Junior College District of Tom Green County.

(b) The board may sell, lease, explore, and develop the lands, may make and enter into unitization agreements, and may execute division orders and other contracts necessary in the management and development of the lands, all on terms and conditions which the board deems to be in the best interest of the university. No lease shall be sold for less than the royalty and rental terms demanded at that time by the general land office in the sale of oil, gas, and other mineral leases of the public lands of the state.

(c) All money received shall be deposited in the state treasury to the credit of a special fund which, in the judgment of the board, may be invested and the principal and income of which may be expended on appropriation by the legislature for the administration of the university. (V.A.C.S. Art. 2654.2, Sec. 6.)

§ 96.24. Military Training

No student shall ever be required to take any military training as a condition for entrance into or graduation from the university. (V.A.C.S. Art. 2654.2, Sec. 9.)

§ 96.25. Obligations and Benefits of General Laws

The university is subject to the obligations and entitled to the benefits of all general laws of Texas applicable to all other state institutions of higher education, except that where the general laws are in conflict with this subchapter, the provisions of this subchapter prevail to the extent of the conflict. (V.A.C.S. Art. 2654.2, Sec. 8.)

[Sections 96.26 to 96.40 reserved for expansion]

SUBCHAPTER C. SOUTHWEST TEXAS STATE UNIVERSITY**§ 96.41. Southwest Texas State University**

Southwest Texas State University is a coeducational institution of higher education located in the city of San Marcos. It is under the management and control of the Board of Regents, State Senior Colleges. (R. S. Art. 2654; V.A.C.S. Art. 2654.1.)

[Sections 96.42 to 96.60 reserved for expansion]

SUBCHAPTER D. SAM HOUSTON STATE UNIVERSITY**§ 96.61. Sam Houston State University**

Sam Houston State University is a coeducational institution of higher education located in the city of Huntsville. It is under the management and control of the Board of Regents, State Senior Colleges. (New.)

§ 96.62. University Airport

(a) The board may construct or otherwise acquire without cost to the state or the university an airport for purposes of cooperation with the national defense program and for instruction in aeronautics.

(b) The board may acquire by purchase, lease, gift, or by any other means, and may maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest in property, necessary or convenient to the exercise of the powers conferred by this section. The board has the power of eminent domain for the purpose of acquiring by condemnation any real property, or any interest in real property, necessary or convenient to the exercise of the powers conferred by this section. The board shall exercise the power of eminent domain in the manner provided by general law, including Title 52, Revised Civil Statutes of Texas, 1925, except that it shall not be required to give bond for appeal or bond for costs. (V.A.C.S. Art. 2650a.)

§ 96.63. Josey School of Vocational Education

(a) The Josey School of Vocational Education is a division of Sam Houston State University and is under the direction and control of the Board of Regents, State Senior Colleges.

(b) The administration of the school is under the direction of the president of Sam Houston State University.

(c) The school shall provide vocational training for individuals over the age of 18 who cannot qualify scholastically for college entrance and for other persons who desire to avail themselves of short intensive courses in vocational education in the following fields: agriculture, home management, distributive education, photography, plumbing, sheet metal work, machine shop, auto mechanics, furniture, electrical appliances, air conditioning and refrigeration, printing, radio, garment making, interior decorating, light construction contracting, photoengraving, watchmaking, and other trades of like nature. The training in these subjects shall be organized so that the courses may be completed in from 9 to 24 months. Courses may also be offered in English and mathematics and other subjects which will contribute to the vocational training of the student. Vocational courses in government, designed to prepare workers in various county, city, and state offices, may also be offered.

(d) The rate of tuition charged students shall be the actual cost of teaching service, not to exceed \$500 per scholastic year of nine months. Scholarships may be awarded by the board to worthy indigent students who might greatly benefit from the training offered. The amount of the scholarships may vary according to the needs of the individuals, but in no case may it reduce the tuition payment by the student to a point less than the tuition fee regularly charged students at the state senior colleges. (V.A.C.S. Art. 2650b.)

[Chapters 97 to 99 reserved for expansion]

SUBTITLE F. OTHER COLLEGES AND
UNIVERSITIES

CHAPTER 100. EAST TEXAS STATE UNIVERSITY

SUBCHAPTER A. GENERAL PROVISIONS

Section

100.01. East Texas State University.

[Sections 100.02 to 100.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

100.11. Board of Regents.

100.12. Terms of Office; Vacancies.

100.13. Removal.

100.14. Oath.

100.15. Officers.

100.16. Meetings.

[Sections 100.17 to 100.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

100.31. Extent of Powers.

100.32. Degrees.

100.33. Donations, Gifts, Grants, Endowments.

100.34. Lease of University Property.

100.35. Contracts for Water and Sewage.

SUBCHAPTER A. GENERAL PROVISIONS

Section 100.01. East Texas State University

East Texas State University is a coeducational institution of higher education located in the city of Commerce. (V.A.C.S. Art. 2647h.)

[Sections 100.02 to 100.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 100.11. Board of Regents

The organization, control, and management of the university is vested in a board of nine regents appointed by the governor and confirmed by the senate. Not more than two members of the board shall be appointed from or be a resident of any one state senatorial district, and no member may be appointed from or be a resident of the county in which the university is located. (V.A.C.S. Art. 2647h—1, Secs. 1, 2 (part).)

§ 100.12. Terms of Office; Vacancies

Members of the board hold office for staggered terms of six years, with the terms of three regents expiring on February 15 of each odd-numbered year. Any vacancy that occurs on the board shall be filled for the unexpired term by appointment of the governor. Each member shall serve until his successor is appointed and has qualified. (V.A.C.S. Art. 2647h—1, Sec. 2 (part).)

§ 100.13. Removal

The members of the board are removable by the governor for inefficiency or malfeasance of office. (V.A.C.S. Art. 2647h—1, Sec. 2 (part).)

§ 100.14. Oath

Each member of the board shall take the constitutional oath of office before assuming the duties of his office. (V.A.C.S. Art. 2647h—1, Sec. 2 (part).)

§ 100.15. Officers

The board shall organize by electing a chairman and any other officers it deems necessary. (V.A.C.S. Art. 2647h—1, Sec. 2 (part).)

§ 100.16. Meetings

The chairman shall convene the board to consider any business connected with the university whenever he deems it expedient. (V.A.C.S. Art. 2647h—1, Sec. 2 (part).)

[Sections 100.17 to 100.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**§ 100.31. Extent of Powers**

With respect to the management and control of the university, the board has the same powers and duties that are conferred on the Board of Regents, State Senior Colleges, with respect to colleges in that system. (V.A.C.S. Art. 2647h—1, Secs. 3, 6.)

§ 100.32. Degrees

The board may award bachelor's, master's, and doctor's degrees and their equivalents, but no department, school, or degree program shall be instituted except with the prior approval of the Coordinating Board, Texas College and University System. (V.A.C.S. Art. 2647h—1, Sec. 7.)

§ 100.33. Donations, Gifts, Grants, Endowments

The board may accept donations, gifts, grants, and endowments for the university to be held in trust and administered by the board for the purposes and under the directions, limitations, and provisions declared in writing in the donation, gift, grant, or endowment, not inconsistent with the laws of the state or with the objectives and proper management of the university. (V.A.C.S. Art. 2647h—1, Sec. 4.)

§ 100.34. Lease of University Property

The board may lease any part of the university's property to any person, partnership, special partnership, business association, or institution, including governmental entities, for the purpose of permitting the university to develop its resources to the greatest extent feasible while realizing a maximum economic benefit. (V.A.C.S. Art. 2647h—1, Sec. 5.)

§ 100.35. Contracts for Water and Sewage

The board shall contract with the city of Commerce for the furnishing of water and sewage to the university. The rates to be charged the university shall be those regularly established, published, and declared for similar users or customers, or if there are no similar users or customers,

the rates to be charged shall be those established by the city for commercial users. The city may make any special adjustments, discounts, and rates that the governing body of the city may see fit to provide for the university. (Acts 52 Legis., Ch. 376, Secs. 1, 2.)

CHAPTER 101. STEPHEN F. AUSTIN STATE UNIVERSITY

SUBCHAPTER A. GENERAL PROVISIONS

Section

101.01. Stephen F. Austin State University.

[Sections 101.02 to 101.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 101.11. Board of Regents.
- 101.12. Term of Office.
- 101.13. Qualifications; Oath.
- 101.14. Officers.
- 101.15. Bylaws, Rules, Regulations.
- 101.16. University President.
- 101.17. Minutes.
- 101.18. Suits Affecting University.
- 101.19. Expenses.
- 101.20. Meetings.
- 101.21. Reports.

[Sections 101.22 to 101.40 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

- 101.41. Extent of Powers.

SUBCHAPTER A. GENERAL PROVISIONS

Section 101.01. Stephen F. Austin State University

Stephen F. Austin State University is a coeducational institution of higher education located in the city of Nacogdoches. (New.)

[Sections 101.02 to 101.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 101.11. Board of Regents

The control and management of the university is vested in a board of nine regents appointed by the governor with the advice and consent of the senate. (V.A.C.S. Art. 2647f—1, Sec. 1(a).)

§ 101.12. Term of Office

Members of the board hold office for staggered terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year. Any vacancy shall be filled by appointment for the unexpired portion of the term. (V.A.C.S. Art. 2647f—1, Sec. 1(b).)

§ 101.13. Qualifications; Oath

Each member of the board must be a citizen of the State of Texas and shall take the constitutional oath of office. (V.A.C.S. Art. 2647f—1, Sec. 2.)

§ 101.14. Officers

The board shall elect a chairman and any other officer deemed necessary. (V.A.C.S. Art. 2647f—1, Sec. 3 (part).)

§ 101.15. Bylaws, Rules, Regulations

The board shall enact bylaws, rules, and regulations necessary for the successful management and operation of the university. (V.A.C.S. Art. 2647f—1, Sec. 3 (part).)

§ 101.16. University President

The board shall select the president of the university. (V.A.C.S. Art. 2647f—1, Sec. 3 (part).)

§ 101.17. Minutes

The board shall cause accurate and complete minutes of its meetings to be maintained. The minutes are open to the public for inspection at the university during regular business hours, and certified copies of the minutes shall be furnished to anyone on payment of a fee set by the board. (V.A.C.S. Art. 2647f—1, Sec. 4.)

§ 101.18. Suits Affecting University

The board may sue and be sued in the name of the university. Venue is in either Nacogdoches County or Travis County. The university may be impleaded by service of citation on its president, and legislative consent to suits against the university is granted. (V.A.C.S. Art. 2647f—1, Sec. 5.)

§ 101.19. Expenses

Members of the board shall serve without pay but shall be reimbursed for their actual expenses incurred in attending the work of the board, subject to the approval of the chairman of the board. (V.A.C.S. Art. 2647f—1, Sec. 6.)

§ 101.20. Meetings

The board shall hold an annual meeting on the campus of the university during the month of April, and at other times and places as scheduled by the board or designated by its chairman. (V.A.C.S. Art. 2647f—1, Sec. 7.)

§ 101.21. Reports

The board shall make reports to the coordinating board as required in Section 61.066 of this code. (V.A.C.S. Art. 2647f—1, Sec. 8.)

[Sections 101.22 to 101.40 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**§ 101.41. Extent of Powers**

With respect to the management and control of the university, the board has the same powers and duties that are conferred on the Board of Regents, State Senior Colleges, with respect to institutions in that system. (V.A.C.S. Art. 2647f—1, Sec. 9.)

CHAPTER 102. WEST TEXAS STATE UNIVERSITY**SUBCHAPTER A. GENERAL PROVISIONS****Section**

102.01. West Texas State University.

[Sections 102.02 to 102.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

102.11. Board of Regents.

102.12. Terms; Vacancies.

102.13. Oath.

102.14. Removal.

102.15. Officers.

102.16. Meetings.

[Sections 102.17 to 102.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

102.31. Extent of Powers.

102.32. Lease of Lands to Fraternities and Sororities.

102.33. Airport.

[Sections 102.34 to 102.50 reserved for expansion]

SUBCHAPTER D. KILLGORE RESEARCH CENTER

102.51. Gifts and Donations; Location of Center.

102.52. Transfer of Money; Disbursements.

102.53. Maintenance and Administration.

102.54. Permanent Research Program.

SUBCHAPTER A. GENERAL PROVISIONS**Section 102.01. West Texas State University**

West Texas State University is a coeducational institution of higher education located in the city of Canyon. (V.A.C.S. Art. 2647d, Sec. 1.)

[Sections 102.02 to 102.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**§ 102.11. Board of Regents**

The organization, control, and management of the university is vested in a board of nine regents appointed by the governor and confirmed by the senate. Not more than two members of the board may be appointed from or be residents of any one state senatorial district, and not more

than one member may be a resident of the county in which the university is located. (V.A.C.S. Art. 2647d—3, Secs. 1, 2 (part).)

§ 102.12. Terms; Vacancies

The members of the board hold office for staggered terms of six years, with the terms of three members expiring each two years. Any vacancy that occurs on the board shall be filled for the unexpired term by appointment of the governor. (V.A.C.S. Art. 2647d—3, Sec. 2 (part).)

§ 102.13. Oath

Each member of the board shall take the constitutional oath of office before assuming the duties of his office. (V.A.C.S. Art. 2647d—3, Sec. 2 (part).)

§ 102.14. Removal

The members of the board are removable by the governor for inefficiency or malfeasance of office. (V.A.C.S. Art. 2647d—3, Sec. 2 (part).)

§ 102.15. Officers

The board shall elect a chairman and any other officers it deems necessary. (V.A.C.S. Art. 2647d—3, Sec. 2 (part).)

§ 102.16. Meetings

The chairman of the board may convene the board to consider any business connected with the university whenever he deems it expedient. (V.A.C.S. Art. 2647d—3, Sec. 2 (part).)

[Sections 102.17 to 102.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 102.31. Extent of Powers

With respect to the management and control of the university, the board has the same powers and duties that are conferred on the Board of Regents, State Senior Colleges, with respect to institutions in that system. (V.A.C.S. Art. 2647d—3, Secs. 3, 4.)

§ 102.32. Lease of Lands to Fraternities and Sororities

(a) The board may lease portions of the state-owned land held for the use and benefit of the university in the city of Canyon to fraternities and sororities for the purpose of constructing chapter houses.

(b) A lease may be for any term of years less than 100, and the consideration and terms may be determined by the board, consistent with the best interests of the university. The chairman of the board, with approval of a majority of the board, may execute all documents necessary to consummate the leasing. (V.A.C.S. Art. 2647d—2.)

§ 102.33. Airport

The university may own and operate an airport, may accept federal aid and money for those purposes, and may enter into sponsor's assurance agreements with the federal government. It may operate the airport separately or in cooperation with a city, a county, the state, or the federal government, with the approval of the appropriate governing body, but without any expense to or liability against the state in any manner. (V.A.C.S. Art. 2919c.)

[Sections 102.34 to 102.50 reserved for expansion]

SUBCHAPTER D. KILLGORE RESEARCH CENTER**§ 102.51. Gifts and Donations; Location of Center**

The board may accept gifts and donations of money and other personal property from the Killgore Foundation and from any other private organization or individual to establish, construct, maintain, and operate a regional center to be known as the Killgore Research Center, on any land held by the board for the use of the university. (V.A.C.S. Art. 2647d—1, Sec. 1.)

§ 102.52. Transfer of Money; Disbursements

All money so received shall be transferred as soon as available to the West Texas State University Foundation or to any other fund or foundation chosen by agreement between the donors and the administration of the university. The disbursement of all this money is under the supervision of the business manager of the university, subject to accounting procedures approved by the state auditor. (V.A.C.S. Art. 2647d—1, Sec. 2.)

§ 102.53. Maintenance and Administration

The maintenance and administration of the research center is the responsibility of the State of Texas acting through the administration of the university, with the advice and assistance of an advisory council on research selected by the administration and the donors. (V.A.C.S. Art. 2647d—1, Sec. 3.)

§ 102.54. Permanent Research Program

In order to provide for a permanent research program, the administration of the university may:

(1) establish formalized working relationships with established research programs similar to the relationship already developed between the university and The University of Texas M. D. Anderson Hospital and Tumor Institute at Houston;

(2) integrate the research program being developed in the graduate school of the university with the research program at the research center;

(3) employ project directors who are recognized researchers and who have had experience in applying for and using research grants from governmental agencies and private foundations;

(4) assign a person from the administrative staff of the university as administrator of the research center; and

(5) perform any other acts and make any agreements which will implement and further the research programs of the research center and the university, consistent with the purposes of this subchapter. (V.A.C.S. Art. 2647d—1, Sec. 4.)

CHAPTER 103. MIDWESTERN UNIVERSITY

Section

- 103.01. Midwestern University.
- 103.02. Board of Regents.
- 103.03. Board Members: Appointment, Terms, Oath.
- 103.04. Reimbursement of Board Members.
- 103.05. Board Officers.
- 103.06. President of University: Selection; Duties.
- 103.07. General Responsibilities.
- 103.08. Donations, Gifts, and Endowments.
- 103.09. Lease of Lands.

Section 103.01. Midwestern University

Midwestern University is a coeducational institution of higher learning located in the city of Wichita Falls. (V.A.C.S. Art. 2623c—1.)

§ 103.02. Board of Regents

The organization, control, and management of the university is vested in a board of nine regents. (V.A.C.S. Art. 2623c—2 (part).)

§ 103.03. Board Members: Appointment, Terms, Oath

Members of the board shall be appointed by the governor and confirmed by the senate. Members hold office for staggered terms of six years. Any vacancy that occurs on the board shall be filled for the unexpired term by appointment of the governor. Each member of the board shall take the constitutional oath of office. (V.A.C.S. Art. 2623c—2 (part).)

§ 103.04. Reimbursement of Board Members

The board shall receive reimbursement only for the actual cost of attendance at board meetings. (V.A.C.S. Art. 2623c—2 (part).)

§ 103.05. Board Officers

The board shall organize by electing a chairman and other officers they desire. (V.A.C.S. Art. 2623c—2 (part).)

§ 103.06. President of University: Selection; Duties

The board shall select a president for the university and shall fix his term of office, name his salary, and define his duties. The president shall be the executive officer for the board and shall work under its directions. He shall recommend a plan of organization and the appointment of employees of the university. He shall have the cooperation of the board and shall be responsible to the board for the general management and success of the university. (V.A.C.S. Art. 2623c—2 (part).)

§ 103.07. General Responsibilities

The board shall build and operate a state college of the first rank that will compare favorably with the other splendid colleges in Texas in the preparation of youth for the varied interests and industries in the section in which the university is located, and this college shall be equipped adequately to do its work as well as other state colleges. (V.A.C.S. Art. 2623c—4 (part).)

§ 103.08. Donations, Gifts, and Endowments

The board may accept donations, gifts, and endowments for the university to be held in trust and administered by the board for the purposes and under the directions, limitations, and provisions declared in writing

in the donation, gift, or endowment, not inconsistent with the objects and proper management of the university. (V.A.C.S. Art. 2623c—6).

§ 103.09. Lease of Lands

The board may lease the surface rights of land under its control and management for any term of years less than 100. (V.A.C.S. Art. 2623c—9.)

CHAPTER 104. TEXAS A & I UNIVERSITY

SUBCHAPTER A. GENERAL PROVISIONS

Section

104.01. Texas A & I University.

[Sections 104.02 to 104.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

104.11. Board of Directors.

104.12. Term of Office; Vacancy; Oath; Removal.

104.13. Board Officers.

104.14. President of University.

[Sections 104.15 to 104.20 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

104.21. General Powers and Duties.

104.22. Eminent Domain.

104.23. Acquisition of Land for Field Classrooms.

104.24. Dormitories.

[Sections 104.25 to 104.40 reserved for expansion]

SUBCHAPTER D. TEXAS A & I UNIVERSITY AT LAREDO

104.41. Establishment; Scope; Discontinuation.

104.42. Facilities; Gifts and Grants.

104.43. Courses and Degrees; Rules and Regulations.

104.44. Effect of Subchapter.

[Sections 104.45 to 104.50 reserved for expansion]

**SUBCHAPTER E. PURCHASE OF FARMLAND,
EQUIPMENT, CROPS, ETC.**

104.51. Authorization.

104.52. Revenue Bonds.

104.53. Pledge of Revenue; Mortgages.

104.54. Bonds as Special Obligations.

104.55. Bonds as Authorized Investments, Security for Deposits.

104.56. Prior Liens, Pledges, Mortgages.

104.57. Form, Conditions, Details, Refinancing.

104.58. Approval and Registration.

104.59. Cumulative Effect.

[Sections 104.60 to 104.70 reserved for expansion]

**SUBCHAPTER F. MINERAL DEVELOPMENT
IN UNIVERSITY LAND**

Section

- 104.71. Mineral Leases; Disposition of Proceeds.
- 104.72. Majority of Board to Act.
- 104.73. Subdivision of Land; Titles.
- 104.74. Sale of Leases; Advertisements; Payments.
- 104.75. Separate Bids; Minimum Royalty; Delay Rental.
- 104.76. Rejection of Bids; Withdrawal of Land.
- 104.77. Acceptance; Conditions and Provisions of Lease.
- 104.78. Acceptance and Filing of Bids; Yearly Payments; Termination of Lease.
- 104.79. Award and Filing of Lease.
- 104.80. Exploratory Term of Lease; Extension; Other Provisions.
- 104.81. Extension of Leases.
- 104.82. Control of Drilling and Production.
- 104.83. Drilling Operations: Suspension of Rent; Continuance of Lease; Duty to Prevent Drainage.
- 104.84. Title to Rights Purchased; Assignment; Relinquishment.
- 104.85. Payment of Royalties; Records; Report of Receipts.
- 104.86. Protection from Drainage; Forfeiture of Rights.
- 104.87. Forfeiture and Other Remedies; Liens.
- 104.88. Filing of Documents and Payment of Royalties, Fees, and Rentals.
- 104.89. Forms, Regulations, Rules, and Contracts.

[Section 104.90 reserved for expansion]

**SUBCHAPTER G. TEXAS A & I UNIVERSITY
AT CORPUS CHRISTI**

- 104.91. Establishment; Scope.
- 104.92. Degrees; Rules; Joint Appointments.
- 104.93. Gifts and Grants.

SUBCHAPTER A. GENERAL PROVISIONS

Section 104.01. Texas A & I University

Texas A & I University is a coeducational institution of higher education located in the city of Kingsville. (V.A.C.S. Art. 2628a—1; Art. 2628a—1a.)

[Sections 104.02 to 104.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 104.11. Board of Directors

The university is under the management and control of a board of nine directors appointed by the governor with the advice and consent of the senate. (V.A.C.S. Art. 2628a—2 (part).)

§ 104.12. Term of Office; Vacancy; Oath; Removal

(a) The members of the board of directors hold office for staggered terms of six years, with the terms of three expiring every two years.

(b) Any vacancy on the board shall be filled for the unexpired portion of the term by appointment of the governor.

(c) Each member of the board shall take the constitutional oath of office.

(d) Each member of the board is removable by the governor for inefficiency or inattention to the duties of his office. (V.A.C.S. Art. 2628a—2 (part).)

§ 104.13. Board Officers

(a) The board shall elect a president of the board and any other officers it may desire.

(b) The board may select from its members a secretary-treasurer and compensate him in an amount not to exceed \$50 a month from the institutional funds normally expended under its authority. (V.A.C.S. Art. 2628a—2 (part); Art. 2628a—2a.)

§ 104.14. President of University

The board shall appoint a president of the university, fix his term of office, set his salary, and define his duties. The president is the executive officer for the board and shall work under its direction. He shall recommend a plan for the organization of the university and the appointment of employees of the university. He is responsible to the board for the general management and success of the university; and he shall have the cooperation of the board. (V.A.C.S. Art. 2628a—2 (part).)

[Sections 104.15 to 104.20 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 104.21. General Powers and Duties

With respect to the management and control of the university, the board has the same powers and duties that are conferred on the Board of Regents, State Senior Colleges, with respect to institutions in that system, except as otherwise provided by this chapter. (V.A.C.S. Art. 2628a—7.)

§ 104.22. Eminent Domain

The board has the power of eminent domain to acquire land needed for the accomplishment of the purposes of the university. In this regard it may operate under condemnation procedures applicable to railroad companies under the laws of this state. (V.A.C.S. Art. 2628a—5 (part).)

§ 104.23. Acquisition of Land for Field Classrooms

(a) The board may acquire land in Hidalgo County, without cost to the State of Texas, to provide field classrooms to further the work of the university in agriculture and animal husbandry.

(b) The board may pledge any future revenue from any land acquired under this section to secure any lien given and retained to secure the purchase price of the land.

(c) The board may pledge collaterally and additionally any unencumbered future net revenue from the bookstore of the university to secure any lien given and retained to secure the purchase price of any land acquired under this section. The board may direct that any revenue from the land acquired under this section remaining after payment of the monthly or yearly installments or after discharge of the lien retained on the land shall be used to reimburse the bookstore to the extent that any of its revenue has been expended in payment of the purchase price of the land. (V.A.C.S. Art. 2628a—10.)

§ 104.24. Dormitories

(a) The board may enter into contracts with persons, firms, or corporations for the construction of dormitories at the university and may purchase or lease land and appurtenances for the construction. However, the state incurs no liability for the buildings or the sites.

(b) The board may make contracts with reference to the collection and disposition of the revenue derived from the dormitories in the acquisition, management, and maintenance of the buildings.

(c) The board may adopt rules and regulations it deems desirable requiring any class or classes of students to reside in the dormitories or other buildings. The board has absolute management and control of the dormitories constructed under the provisions of this section. (V.A.C.S. Art. 2628a—8.)

[Sections 104.25 to 104.40 reserved for expansion]

SUBCHAPTER D. TEXAS A & I UNIVERSITY AT LAREDO**§ 104.41. Establishment; Scope; Discontinuation**

The board may establish an upper-level educational center of Texas A & I University in the city of Laredo, to be known as Texas A & I University at Laredo, to accept junior- and senior-level students only. This upper-level educational center may be discontinued by the Coordinating Board, Texas College and University System, at its discretion. (V.A.C.S. Art. 2628e, Sec. 1.)

§ 104.42. Facilities; Gifts and Grants

The board shall make provision for adequate physical facilities for use by the university at Laredo, and may accept and administer, on terms and conditions satisfactory to the board, grants or gifts of money or property which are tendered by any person for the use and benefit of the school. (V.A.C.S. Art. 2628e, Sec. 2.)

§ 104.43. Courses and Degrees; Rules and Regulations

The board, with approval of the Coordinating Board, Texas College and University System, may prescribe courses leading to customary degrees, and make other rules and regulations for the operation, control, and management of the university at Laredo as necessary for the school to be a first-class upper division institution of higher learning. In prescribing the courses, the board shall give special emphasis to those courses leading to baccalaureate degrees in teacher education and business administration. (V.A.C.S. Art. 2628e, Sec. 3.)

§ 104.44. Effect of Subchapter

Nothing in this subchapter shall be construed to limit the powers of the board as conferred by law. (V.A.C.S. Art. 2628e, Sec. 4.)

[Sections 104.45 to 104.50 reserved for expansion]

**SUBCHAPTER E. PURCHASE OF FARMLAND,
EQUIPMENT, CROPS, ETC.****§ 104.51. Authorization**

The board for the benefit of the university may purchase, use, lease as lessor, and operate farmland, may purchase crops and other horticultural and agricultural products growing on or produced or to be produced and harvested from the land, and may purchase any farming machinery, ap-

paratus, and equipment used or useful in connection with it, from any person, firm, or corporation and for the price or prices the board considers reasonable and proper. (V.A.C.S. Art. 2628a—11, Sec. 1.)

§ 104.52. Revenue Bonds

For the purpose of purchasing the items permitted to be purchased under Section 104.51 of this code, the board may issue its negotiable revenue bonds from time to time in the amounts it considers necessary or appropriate for the purpose of paying the purchase price or prices. The bonds may be made redeemable before maturity, at the option of the board, at the price or prices and under the terms and conditions that may be fixed by the board prior to the issuance of the bonds. The bonds shall be sold for not less than par and accrued interest. (V.A.C.S. Art. 2628a—11, Sec. 2.)

§ 104.53. Pledge of Revenue; Mortgages

The board may pledge to the payment of the interest on and the principal of the bonds all or any part of the revenue derived or anticipated to be derived in any manner from the land, including any revenue received from rendering scientific or experimental services on the land purchased and all or any part of the revenue of the university derived or anticipated to be derived from the sale, handling, or disposal of the crops, agricultural and horticultural products acquired or to be grown and harvested from the land; and the board may enter into any agreements regarding the pledging thereof that it may deem appropriate. The board may also mortgage the farming equipment, machinery, apparatus, and land thus purchased and any growing fruits, products, and crops, or those to be grown, on any terms the board may determine to be appropriate. (V.A.C.S. Art. 2628a—11, Sec. 3.)

§ 104.54. Bonds as Special Obligations

The bonds authorized to be issued under this subchapter are special obligations of the board, payable only from the revenue pledged, and none of the bonds shall ever be an indebtedness of the State of Texas. (V.A.C.S. Art. 2628a—11, Sec. 4.)

§ 104.55. Bonds as Authorized Investments, Security for Deposits

The bonds are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, and insurance companies. The bonds are eligible to secure the deposit of public funds of the State of Texas and of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas; and the bonds are lawful and sufficient security for those deposits to the extent of the principal amount, or their value on the market, whichever is less, when accompanied by all unmatured coupons appurtenant to them. (V.A.C.S. Art. 2628a—11, Sec. 5.)

§ 104.56. Prior Liens, Pledges, Mortgages

Any pledge of revenue or mortgage of property made under the terms of this subchapter shall be subject to any prior lien, pledge, or mortgage thereof, but the existence of any such prior lien, pledge, or mortgage shall not prevent (a) the making of a subsequent and inferior lien, pledge, or mortgage, unless that action is prohibited under the resolution, order, or indenture authorizing the prior obligations, or (b) the issuing of additional parity lien revenue bonds which are hereby authorized, if and to the extent permitted by the order or indenture authorizing the prior obligations. (V.A.C.S. Art. 2628a—11, Sec. 6.)

§ 104.57. Form, Conditions, Details, Refinancing

Subject to the restrictions contained in this subchapter, the board is given complete discretion in fixing the form, conditions, and details of the bonds, pledge, and mortgage, and the bonds may be refunded or otherwise refinanced whenever the board deems that action to be appropriate or necessary. (V.A.C.S. Art. 2628a—11, Sec. 7.)

§ 104.58. Approval and Registration

Prior to delivery, all bonds authorized to be issued under this subchapter and the records relating to their issuance shall be submitted to the attorney general for examination; and if he finds that they have been issued in accordance with the constitution and this subchapter and that they will be binding special obligations of the board, he shall approve them. They shall then be registered by the comptroller of public accounts. After the approval and registration, the bonds shall be incontestable. (V.A.C.S. Art. 2628a—11, Sec. 8.)

§ 104.59. Cumulative Effect

This subchapter does not repeal any statute now in effect, but is cumulative of all other statutes pertaining to the university, and does not modify or abridge any powers held by the university to control or pledge its funds. However, to the extent that the provisions of this subchapter may be in conflict with the provisions of any other law, the provisions of this subchapter take precedence and prevail. (V.A.C.S. Art. 2628a—11, Sec. 10.)

[Sections 104.60 to 104.70 reserved for expansion]

**SUBCHAPTER F. MINERAL DEVELOPMENT
IN UNIVERSITY LAND****§ 104.71. Mineral Leases; Disposition of Proceeds**

(a) The board may lease for oil, gas, sulphur, or other mineral development to the highest bidder at public auction all or part of the lands under the exclusive control of the board owned by the State of Texas and acquired for the use of Texas A & I University and its divisions.

(b) Any money received by virtue of this section shall be deposited in the state treasury to the credit of a special fund to be known as the Texas A & I University special mineral fund, to be used exclusively for the university and its branches and divisions. However, no money shall ever be expended from this fund except as authorized by the general appropriations act. (V.A.C.S. Art. 2628a—9, Sec. 1.)

§ 104.72. Majority of Board to Act

A majority of the board has power to act in all cases under this subchapter except as otherwise provided in this subchapter. (V.A.C.S. Art. 2628a—9, Sec. 14 (part).)

§ 104.73. Subdivision of Land; Titles

(a) The board may have the lands surveyed or subdivided into tracts, lots, or blocks which, in their judgment, will be most conducive and convenient to an advantageous sale or lease of oil, gas, sulphur, or other minerals in the lands; and the board may make maps and plats which it deems necessary to carry out the purposes of this subchapter.

(b) The board may obtain authentic abstracts of title to the lands from time to time as it deems necessary and may take necessary steps to perfect a merchantable title to the lands. (V.A.C.S. Art. 2628a—9, Sec. 2.)

§ 104.74. Sale of Leases; Advertisements; Payments

(a) Whenever in the opinion of the board there is a demand for the purchase of oil, gas, sulphur, or other mineral leases on any tract or part of any tract of land which will reasonably insure an advantageous sale, the board shall place the oil, gas, sulphur, or other mineral leases on the land on the market in a tract or tracts, or any part of a tract, which the board may designate.

(b) The board shall have advertised a brief description of the land from which the oil, gas, sulphur, or other minerals is proposed to be leased. The advertisement shall be made by inserting in two or more papers of general circulation in this state, and in addition, the board may, in its discretion, cause the advertisement to be placed in an oil and gas journal published in and out of the state. The board may also mail copies of the proposals to the county judge of the county where the lands are located and to other persons the board believes would be interested.

(c) The board may sell the lease or leases to the highest bidder at public auction at the university in Kingsville at any hour between 10 a. m. and 5 p. m.

(d) The highest bidder shall pay to the board on the day of the sale 25 percent of the bonus bid, and the balance of the bid shall be paid within 24 hours after the bidder is notified that the bid has been accepted. Payments shall be made in cash, certified check, or cashier's check, as the board directs. The failure of the bidder to pay the balance of the amount bid will forfeit to the board the 25 percent paid. (V.A.C.S. Art. 2628a—9, Sec. 3.)

§ 104.75. Separate Bids; Minimum Royalty; Delay Rental

(a) A separate bid shall be made for each tract or subdivision of a tract.

(b) No bid shall be accepted which offers a royalty of less than one-eighth of the gross production of oil, gas, sulphur, and other minerals in the land bid upon, and this minimum royalty may be increased at the discretion of the board.

(c) Every bid shall carry the obligation to pay an amount not less than \$1 per acre for delay in drilling or development. The amount shall be fixed by the board in advance of the advertisement. The amount fixed shall be paid every year for five years unless in the meantime production in paying quantities is had upon the land or the land is released by the lessee. (V.A.C.S. Art. 2628a—9, Sec. 4.)

§ 104.76. Rejection of Bids; Withdrawal of Land

The board may reject any and all bids and may withdraw any land advertised for lease. (V.A.C.S. Art. 2628a—9, Sec. 14 (part).)

§ 104.77. Acceptance; Conditions and Provisions of Lease

(a) If, in the opinion of the board, any one of the bidders has offered a reasonable and proper price for any tract, which is not less than the price set by the board, the lands advertised may be leased for oil, gas, sulphur, and other mineral purposes under the terms of this section and subject to regulations prescribed by the board which are not inconsistent with the provisions of this section. In the event no bid is accepted by the board at public auction, any subsequent procedure for the sale of the leases shall be in the manner prescribed in the preceding sections.

(b) No lease shall be made by the board which will permit the drilling or mining for oil, gas, sulphur, or other minerals within 300 feet of any building on the land without the consent of the board. In making any lease on any experimental station or farm, the lease shall provide that the operations for oil, gas, and other minerals shall not in any way inter-

fere with use of the land for university purposes and shall not cause the abandonment of the property or its use for experimental farm purposes. The lease shall also provide that the lessee operating the property shall drill and carry on his operations in such a way as not to cause the abandonment of the property for university purposes, and the leased property shall be subject to the use by the state for all university purposes, and the board shall continue to operate the university. (V.A.C.S. Art. 2628a—9, Sec. 5.)

§ 104.78. Acceptance and Filing of Bids; Yearly Payments; Termination of Lease

(a) If the board determines that a satisfactory bid has been received for the oil, gas, sulphur, or other mineral lands, it shall accept the bid and reject all others and shall file the accepted bid in the general land office.

(b) Whenever the royalties shall amount to as much as the yearly payments fixed by the board, the yearly payments may be discontinued.

(c) If before the expiration of five years oil, gas, sulphur, or other minerals have not been produced in paying quantities, the lease shall terminate unless extended as provided in Sections 104.80 and 104.81 of this code. (V.A.C.S. Art. 2628a—9, Sec. 6.)

§ 104.79. Award and Filing of Lease

If the board determines that a satisfactory bid has been received for the oil, gas, sulphur, or other minerals, it shall make an award to the bidder offering the highest price, and a lease shall be filed in the general land office. (V.A.C.S. Art. 2628a—9, Sec. 7(a).)

§ 104.80. Exploratory Term of Lease; Extension; other Provisions

(a) The exploratory term of a lease as determined by the board prior to the promulgation of the advertisement shall not exceed five years, and each lease shall provide that the lease will terminate at the expiration of its exploratory term unless by unanimous vote of the board the lease is extended for a period of three years.

(b) The lease may be extended if the board finds that there is a likelihood of oil, gas, sulphur, or other minerals being discovered by the lessees, and that the lessees have proceeded with diligence to protect the interest of the state. If oil, gas, sulphur, or other minerals are being produced in paying quantities from the premises, the lease shall continue in force and effect as long as the oil, gas, sulphur, or other minerals are being so produced. No extension may be made by the board until the last 30 days of the original term of the lease.

(c) The lease shall include additional provisions and regulations prescribed by the board to preserve the interest of the state, not inconsistent with the provisions of this subchapter. (V.A.C.S. Art. 2628a—9, Sec. 7(b).)

§ 104.81. Extension of Leases

When in the discretion of the board it is deemed for the best interest of the state to extend a lease issued by the board, the board may by unanimous vote extend the lease for a period not to exceed three years, on the condition that the lessee shall continue to pay yearly rental as provided in the lease and shall comply with any additional terms which the board may see fit and proper to demand. The board may extend the lease and execute an extension agreement. (V.A.C.S. Art. 2628a—9, Sec. 7(c).)

§ 104.82. Control of Drilling and Production

The drilling for and the production of oil, gas, and other minerals from the lands shall be governed and controlled by the Railroad Commission of

Texas and other regulatory bodies which govern and control other fields in this state. (V.A.C.S. Art. 2628a—9, Sec. 7(d).)

§ 104.83. Drilling Operations: Suspension of Rent; Continuance of Lease; Duty to Prevent Drainage

(a) If during the term of a lease issued under the provisions of this subchapter the lessee is engaged in actual drilling operations for the discovery of oil, gas, sulphur, or other minerals, no rentals shall be payable as to the tract on which the operations are being conducted as long as the operations are proceeding in good faith.

(b) In the event oil, gas, sulphur, or other minerals are discovered in paying quantities on any tract of land covered by a lease, then the lease as to that tract shall remain in force as long as oil, gas, sulphur, or other minerals are produced in paying quantities from the tract.

(c) In the event of the discovery of oil, gas, sulphur, or other minerals on any tract covered by a lease or on any land adjoining the tract, the lessee shall conduct such operations as may be necessary to prevent drainage from the tract covered by the lease to properly develop the same to the extent that a reasonably prudent man would do under the same and similar circumstances. (V.A.C.S. Art. 2628a—9, Sec. 8.)

§ 104.84. Title to Rights Purchased; Assignment; Relinquishment

(a) Title to all rights purchased may be held by the owners as long as the area produces oil, gas, sulphur, or other minerals in paying quantities.

(b) All rights purchased may be assigned. All assignments shall be filed in the general land office within 100 days from the date of the first acknowledgment thereof, accompanied by 10 cents per acre for each acre assigned. The assignment shall not be effective unless it is filed and the payment made.

(c) All rights to any whole tract or to any assigned portion thereof may be relinquished to the state at anytime by having an instrument of relinquishment recorded in the county or counties in which the area is situated. The instrument of relinquishment shall be filed with the chairman of the board, accompanied by \$1 for each area assigned. The assignment shall not relieve the owner of any past-due obligations accrued on the lease.

(d) The board shall authorize the laying of pipeline and telephone line and the opening of roads deemed reasonably necessary in carrying out the purposes of this subchapter. (V.A.C.S. Art. 2628a—9, Sec. 9.)

§ 104.85. Payment of Royalties; Records; Report of Receipts

(a) If oil or other minerals are developed on any of the lands leased by the board, the royalty as stipulated in the sale shall be paid to the general land office in Austin on or before the last day of each month for the preceding month during the life of the rights purchased. The royalty payments shall be set aside in the state treasury as specified in Section 104.71 of this code and used as provided in that section.

(b) The royalty paid to the general land office shall be accompanied by the sworn statement of the owner, manager, or other authorized agent showing the gross amount of oil, gas, sulphur, or other minerals produced and sold off the premises and the market value of the minerals, together with a copy of all daily gauges, or vats, tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, vats, tanks, or pool and gas lines or gas storage. The books and accounts, receipts and discharges of all wells, tanks, vats, pools, meters, and pipelines, and all contracts and other records pertaining to the production, transportation, sale, and mar-

keting of the oil, gas, sulphur, or other minerals shall at all times be subject to inspection and examination by any member of the board or any duly authorized representative of the board.

(c) The commissioner of the general land office shall tender to the board on or before the 10th day of each month a report of all receipts from the lease or sale of oil, gas, sulphur, or other minerals turned into the special fund in the state treasury during the preceding month. (V. A.C.S. Art. 2628a—9, Sec. 10.)

§ 104.86. Protection from Drainage; Forfeiture of Rights

(a) In every case where the area in which oil, gas, sulphur, or other minerals sold is contiguous or adjacent to lands which are not lands belonging to and held by the university, the acceptance of the bid and the sale made thereby shall constitute an obligation of the owner to adequately protect the land leased from drainage from the adjacent lands to the extent that a reasonably prudent operator would do under the same and similar circumstances.

(b) In cases where the area in which the oil, gas, sulphur, or other minerals sold is contiguous to other lands belonging to and held by the university which have been leased or sold at a lesser royalty, the owner shall protect the land from drainage from the lands leased or sold for a lesser royalty.

(c) On failure to protect the land from drainage as provided in this section, the sale and all rights acquired may be forfeited by the board in the manner provided in Section 104.87 of this code for forfeitures. (V. A.C.S. Art. 2628a—9, Sec. 11.)

§ 104.87. Forfeiture and Other Remedies; Liens

(a) Leases granted under the provisions of this chapter are subject to forfeiture by the board by an order entered in the minutes of the board reciting the acts or omissions constituting a default and declaring a forfeiture.

(b) Any of the following acts or omissions constitutes a default:

(1) the failure or refusal by the owner of the rights acquired under this chapter to make a payment of a sum due, either as rental or royalty on production, within 30 days after the payment becomes due;

(2) the making of a false return or false report concerning production, royalty, drilling, or mining by the owner or his authorized agent;

(3) the failure or refusal of the owner or his agent to drill an offset well or wells in good faith, as required by the lease;

(4) the refusal of the owner or his agent to allow the proper authorities access to the records and other data pertaining to the operations authorized in this subchapter;

(5) the failure or refusal of the owner or his authorized agent to give correct information to the proper authorities, or to furnish the log of any well within 30 days after production is found in paying quantities; or

(6) the violation by the owner of any material term of the lease.

(c) The board may, if it so desires, have suit for forfeiture instituted through the attorney general.

(d) On proper showing by the forfeiting owner within 30 days after the declaration of forfeiture, the lease may be reinstated at the discretion of the board and upon terms prescribed by the board.

(e) In case of violation by the owner of the lease contract, the remedy of forfeiture shall not be the exclusive remedy, and the state may institute suit for damages or specific performance or both.

(f) The state shall have a first lien on oil, gas, sulphur, or other minerals produced in the leased area, and on all rigs, tanks, vats, pipelines, telephone lines, and machinery and appliances used in the production and

handling of oil, gas, sulphur, or other minerals produced, to secure the amount due from the owner of the lease. (V.A.C.S. Art. 2628a—9, Sec. 12.)

§ 104.88. Filing of Documents and Payment of Royalties, Fees, and Rentals

(a) All surveys, files, copies of sale and lease contracts, and other records pertaining to the sales and leases authorized in this subchapter shall be filed in the general land office and shall constitute archives.

(b) Payment of all royalties, lease fees, rentals for delay in drilling or mining, filing fees for assignments and relinquishments, and all other payments shall be made to the commissioner of the general land office at Austin. The commissioner shall transmit all payments received to the state treasurer for deposit to the credit of the Texas A & I University special mineral fund. (V.A.C.S. Art. 2628a—9, Sec. 13.)

§ 104.89. Forms, Regulations, Rules, and Contracts

The board shall adopt proper forms, regulations, rules, and contracts which, in its judgment, will protect the income from lands leased pursuant to this subchapter. (V.A.C.S. Art. 2628a—9, Sec. 14 (part).)

[Section 104.90 reserved for expansion]

SUBCHAPTER G. TEXAS A & I UNIVERSITY AT CORPUS CHRISTI

Subchapter G consisting of sections 104.91 to 104.93 was added to Chapter 104 by Acts 1971, 62nd Leg., p. 3349, ch. 1024, Art. 2, § 24, effective Sept. 1, 1971.

§ 104.91. Establishment; Scope

(a) The board is authorized and directed to establish and maintain a fully state-supported coeducational institution of higher learning to be known as Texas A & I University at Corpus Christi. The site for the institution shall consist of at least 200 acres of land and shall be provided for the institution at no cost to the state.

(b) The institution shall be organized to accept only junior, senior, and graduate-level students, with at least 60 semester hours of accredited college or university study.

Added by Acts 1971, 62nd Leg., p. 3349, ch. 1024, Art. 2, § 24, eff. Sept. 1, 1971.

§ 104.92. Degrees; Rules; Joint Appointments

(a) The board may prescribe courses leading to such customary degrees as are offered at leading American universities of this concept and to award such degrees. It is the intent of the legislature that such degrees shall include baccalaureate and master's degrees and their equivalents, and that there be established a standard program for such type institution, but no department, school, or degree program shall be instituted except with the prior approval of the Coordinating Board, Texas College and University System.

(b) The board shall make such other rules and regulations for the operation, control, and management of the university, including the determination of the number of students that shall be admitted to any school, college, or degree-granting program, as may be necessary for the conduct of the university as one of the first class.

(c) The board is specifically authorized to make joint appointments in the university and in other institutions under its governance, the salary of any such person who receives a joint appointment to be apportioned to the appointing institution on the basis of services rendered.

Added by Acts 1971, 62nd Leg., p. 3350, ch. 1024, Art. 2, § 24, eff. Sept. 1, 1971.

§ 104.93. Gifts and Grants

(a) The board may accept and administer upon terms and conditions satisfactory to it grants or gifts of property, including real estate and/or money that may be tendered to it in aid of the planning, establishment, conduct, and operation of Texas A & I University at Corpus Christi, and in aid of research and teaching at the university.

(b) The board may accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money for the use and benefit of the university. (H. B.No.275, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3350, ch. 1024, Art. 2, § 24, eff. Sept. 1, 1971.

CHAPTER 105. NORTH TEXAS STATE UNIVERSITY

SUBCHAPTER A. GENERAL PROVISIONS

Section

105.01. North Texas State University.

[Sections 105.02 to 105.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

105.11. Board of Regents.

105.12. Term of Office; Removal; Vacancy.

105.13. Residence.

105.14. Oath.

105.15. Officers; Meetings.

[Sections 105.16 to 105.40 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

105.41. Extent of Powers.

105.42. Contracts with City for Utility Services.

105.43. Student Union Fee.

[Sections 105.44 to 105.60 reserved for expansion]

SUBCHAPTER D. STATE HISTORICAL COLLECTION

105.61. Designation.

105.62. Gifts and Donations.

105.63. Rules and Regulations.

SUBCHAPTER A. GENERAL PROVISIONS

Section 105.01. North Texas State University

North Texas State University is a coeducational institution of higher education located in the city of Denton. (R.S. Art. 2651; V.A.C.S. Art. 2651a, Sec. 1.)

[Sections 105.02 to 105.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**§ 105.11. Board of Regents**

The organization, control, and management of the university is vested in a board of nine regents appointed by the governor and confirmed by the senate. (V.A.C.S. Art. 2651a, Sec. 2 (part).)

§ 105.12. Term of Office; Removal; Vacancy

The term of office of each regent is six years, with the term of three regents expiring every two years. Members of the board may be removed from office for inefficiency or malfeasance of office. Any vacancy that occurs on the board shall be filled by the governor for the unexpired term. (V.A.C.S. Art. 2651a, Sec. 2 (part).)

§ 105.13. Residence

Not more than one member of the board may be appointed from or be a resident of any one state senatorial district. (S.B.No.772, 62nd Legis., Reg.Sess., 1971.) (V.A.C.S. Art. 2651a, Sec. 2 (part).)

Amended by Acts 1971, 62nd Leg., p. 3345, ch. 1024, Art. 2, § 17, eff. Sept. 1, 1971.

§ 105.14. Oath

Each member of the board shall take the constitutional oath of office before assuming the duties of his office. (V.A.C.S. Art. 2651a, Sec. 2 (part).)

§ 105.15. Officers; Meetings

The board shall elect a chairman and any other officers it deems necessary. The chairman may convene the board when he deems it expedient to consider any business related to the university. (V.A.C.S. Art. 2651a, Sec. 2 (part).)

[Sections 105.16 to 105.40 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**§ 105.41. Extent of Powers**

With respect to the management and control of the university, the board has the same powers and duties that are conferred on the Board of Regents, State Senior Colleges, with respect to institutions in that system. (V.A.C.S. Art. 2651a, Sec. 3 (part).)

§ 105.42. Contracts with City for Utility Services

The board may contract with the city of Denton for the furnishing of water and other utility services to the university. The rates to be charged the university shall not exceed those regularly established, published, and declared rates for similar customers; and if there are no similar customers, the rates to be charged shall be those established by the city of Denton for commercial users. The city may make any adjustments, discounts, and special rates that the governing authorities of the city may see fit to provide for the university. (V.A.C.S. Art. 2647e.)

§ 105.43. Student Union Fee

(a) The board may levy a regular, fixed student fee not to exceed \$10 per student for each semester of the long session and not to exceed \$5 per student for each semester of the summer session, or any fractional

part thereof, against each student enrolled in that institution, as may in their discretion be just and necessary for the purpose of operating, maintaining, improving, and equipping the student union and acquiring or constructing additions thereto; provided, however, that the student body must approve each increase of said fee in excess of \$1 per student for each semester of the long session and 50 cents per student for each term of the summer school, at an election called for that purpose by the board. Notice of an election shall be given by publication of a substantial copy of the resolution or order of the board calling the election and showing the amount of the increased fee and the purpose for which it is to be used. The notice shall be published in *The North Texas Daily* or in any other student newspaper having general circulation among the students for three consecutive days of the week immediately preceding the date set for the election. The board shall canvass the returns and declare the results of the election, and if a majority of the students voting in the election vote in favor of the increase, then the board may levy the fee in an amount not in excess of the amount authorized at the election.

(b) The activities of the student union financed in whole or in part by the student union fee shall be limited to those activities in which the entire student body is eligible to participate and in no event may any of the activities so financed be held outside of the territorial limits of the campus of North Texas State University.

(c) The fiscal officer of North Texas State University shall collect the fees provided for in Subsection (a) of this section and shall credit the money received from those fees to an account known as the student union fee account.

(d) The money thus collected and placed in the student union fee account shall be used for the purpose of operating and maintaining and improving the student union and shall be placed under the control of and subject to the order of the board of directors of the student union, which board of directors shall annually submit a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The board of regents shall make such changes in the budget as it deems necessary before approving it, and shall then levy the student fees under the provisions of Subsection (a) of this section in such amounts as will be sufficient to meet the budgetary needs of the student union, within the statutory limits fixed in this section.

(e) This fee is collectible beginning September 1, 1971. (H.B.No.214, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3336, ch. 1024, Art. 2, § 3, eff. Sept. 1, 1971.

[Sections 105.44 to 105.60 reserved for expansion]

SUBCHAPTER D. STATE HISTORICAL COLLECTION

§ 105.61. Designation

The historical collection of the university, consisting of books, documents, stamps, coins, firearms, implements of warfare, relics, heirlooms, and other items of historical importance, is designated a State Historical Collection, to be known as "The State Historical Collection of North Texas State University." (V.A.C.S. Art. 2653a, Sec. 1.)

§ 105.62. Gifts and Donations

The board may accept and receive gifts, donations, and collections of books, documents, stamps, coins, firearms, implements of warfare, relics, heirlooms, and collections of all kinds having historical importance and

value, to be used in teaching the youth of this state. (V.A.C.S. Art. 2653a, Sec. 2.)

§ 105.63. Rules and Regulations

The board may make any rules and regulations regarding the receiving and holding of these gifts, donations, and collections, that it considers necessary and advisable. (V.A.C.S. Art. 2653a, Sec. 3.)

CHAPTER 106. TEXAS SOUTHERN UNIVERSITY

SUBCHAPTER A. GENERAL PROVISIONS

Section

106.01. Texas Southern University.

[Sections 106.02 to 106.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

106.11. Board of Directors.

106.12. Terms of Office.

106.13. Qualifications; Oath.

106.14. Officers.

106.15. Expenses.

106.16. Seal.

[Sections 106.17 to 106.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

106.31. Administrative Powers.

106.32. Expenditures.

106.33. Contracts with Other Institutions.

106.34. Gifts, Grants.

106.35. Acquisition of Land.

106.36. Military Training.

[Sections 106.37 to 106.50 reserved for expansion]

SUBCHAPTER D. CONTROL OF UNIVERSITY FUNDS

106.51. Control of Money Collected.

106.52. Depositories.

106.53. Accounts; Trust Funds.

106.54. Biennial Report.

106.55. Legislative Intent.

SUBCHAPTER A. GENERAL PROVISIONS

Section 106.01. Texas Southern University

Texas Southern University is a coeducational institution of higher education located in the city of Houston. (V.A.C.S. Art. 2643b, Sec. 2 (part); Art. 2643f, Secs. 1-4.)

[Sections 106.02 to 106.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**§ 106.11. Board of Directors**

The government of the university is vested in a board of nine directors appointed by the governor with the advice and consent of the Senate. (V.A.C.S. Art. 2643b, Sec. 3 (part).)

§ 106.12. Terms of Office

Members of the board hold office for staggered terms of six years, with the terms of three directors expiring on February 1 of odd-numbered years. (V.A.C.S. Art. 2643b, Sec. 3 (part).)

§ 106.13. Qualifications; Oath

Each member of the board shall be a qualified voter of the state. The members shall be selected from different portions of the state. Each member shall take the constitutional oath of office. (V.A.C.S. Art. 2643b, Sec. 3 (part).)

§ 106.14. Officers

The board shall elect a chairman and a vice chairman from its members to serve at the will of the board. The board shall appoint a secretary. The state treasurer shall be the treasurer of the university. (V.A.C.S. Art. 2643b, Sec. 3 (part).)

§ 106.15. Expenses

The reasonable expenses incurred by members of the board in the discharge of their duties shall be paid from any available funds of the university. (V.A.C.S. Art. 2643b, Sec. 4 (part).)

§ 106.16. Seal

The board may make, use, and alter a common seal. (V.A.C.S. Art. 2643b, Sec. 3 (part).)

[Sections 106.17 to 106.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**§ 106.31. Administrative Powers**

The board shall establish the several departments in the university, determine the offices, professorships, and other positions at the institution, appoint a president, appoint the professors and other officers and employees and prescribe their duties, and fix their respective salaries. The board shall enact bylaws, rules, and regulations deemed necessary for the successful management and government of the institution. The board may remove any professor, instructor, tutor, or other officer or employee connected with the institution when, in its judgment, the best interests and proper operation of the institution requires it. (V.A.C.S. Art. 2643b, Sec. 7.)

§ 106.32. Expenditures

All expenditures shall be made by order of the board and shall be paid on warrants issued by the comptroller based on vouchers approved by the chairman of the board or some other officer of the university designated by him in writing to the comptroller, and countersigned by the secretary of the board or some other officer of the university designated by the

secretary in writing to the comptroller. (V.A.C.S. Art. 2643b, Sec. 4 (part).)

§ 106.33. Contracts with Other Institutions

The board may make proper arrangements by contract with other educational institutions, hospitals, and clinics in Houston for the use of any facilities and services it considers necessary and expedient for the proper training and education of students in professional courses. (V.A.C.S. Art. 2643b, Sec. 6 (part).)

§ 106.34. Gifts, Grants

The board may accept from other than state sources gifts and grants of money and property for the benefit of the university. (V.A.C.S. Art. 2643b, Sec. 8.)

§ 106.35. Acquisition of Land

The board on behalf of the university may acquire by purchase, exchange, or otherwise any tract or parcel of land in Harris County that is contiguous or adjacent to the campus of the university when the board deems the land necessary for campus expansion. (V.A.C.S. Art. 2643d—1.)

§ 106.36. Military Training

No student shall ever be required to take any military training as a condition for entrance into or graduation from the university. (V.A.C.S. Art. 2643f—1.)

[Sections 106.37 to 106.50 reserved for expansion]

SUBCHAPTER D. CONTROL OF UNIVERSITY FUNDS

§ 106.51. Control of Money Collected

The board may retain control of:

- (1) money derived from student fees of all kinds;
- (2) charges for use of rooms and dormitories;
- (3) receipts from meals, cafes, and cafeterias;
- (4) fees on deposit refundable to students under certain conditions;
- (5) receipts from school athletic activities;
- (6) income from student publications and other student activities;
- (7) receipts from the sale of publication products and miscellaneous supplies and equipment;
- (8) students' voluntary deposits of money for safekeeping;
- (9) funds, revenue, and accounts received from the University of Houston and other institutions;
- (10) gifts and grants to the university; and
- (11) all other fees and local institutional income of a strictly local nature arising out of, or incident to, the university's educational activities. (V.A.C.S. Art. 2643e, Secs. 1, 5.)

§ 106.52. Depositories

The board may select depository banks as places of deposit of all funds of the kind and character named in Section 106.51 of this code, which are collected by the university, and the board shall require adequate surety bonds or securities to be posted to secure the deposits and may require additional security at any time the board deems any deposit inadequately secured. All funds of the character named in Section 106.51 of this code,

which are so collected, shall be deposited in the depository bank or banks within five days from the date of collection. Depository banks so selected are authorized to pledge their securities to protect the funds. Any surety bond furnished under the provisions of this section shall be payable to the governor and his successors in office; and venue of suit to recover any amount claimed by the state to be due on any of these bonds is fixed in Travis County. (V.A.C.S. Art. 2643e, Sec. 2.)

§ 106.53. Accounts; Trust Funds

Separate accounts shall be kept on the books of the university, showing the sources of all sums collected and the purposes for which expended. All trust funds handled by the board 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 trust funds shall be secured by separate bonds or securities. (V.A.C.S. Art. 2643e, Sec. 3.)

§ 106.54. Biennial Report

True and full accounts shall be kept by the board and by the employees of the university of all funds collected from all sources by the university, all the sums paid out by it, and the persons to whom and the purposes for which the sums are paid. The board shall print biennially a complete report of all sums collected, all expenditures, and the sums remaining on hand. The report shall be printed in even-numbered years between September 1 and January 1. It shall show the true condition of all funds as of the preceding August 1, and shall show all collections and expenditures for the preceding two years. The board shall furnish copies of the report to the governor, state treasurer, comptroller, state auditor, and attorney general, and not less than three copies to the State Board of Control. The board shall furnish a copy to each member of the House Appropriations Committee, the Senate Finance Committee, and the House and Senate committees on education of each regular session of the legislature within one week after the committees are appointed. (V.A.C.S. Art. 2643e, Sec. 4.)

§ 106.55. Legislative Intent

The authority granted the board under this subchapter is intended to be the same as the authority granted to the governing boards of The University of Texas System, Texas A & M University System, and similar institutions with regard to the control and use of local funds. (V.A.C.S. Art. 2643e, Sec. 7.)

CHAPTER 107. TEXAS WOMAN'S UNIVERSITY

SUBCHAPTER A. GENERAL PROVISIONS

Section

107.01. Location and Purpose of University.

[Sections 107.02 to 107.20 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

107.21. Board of Regents.

107.22. Officers.

107.23. Board Meetings; Minutes.

107.24. Compensation of Board.

[Sections 107.25 to 107.40 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**Section**

- 107.41. Extent of Powers.
- 107.42. Staff.
- 107.43. Departments.
- 107.44. Rules and Regulations.

[Sections 107.45 to 107.60 reserved for expansion]

SUBCHAPTER D. DORMITORIES AND IMPROVEMENTS

- 107.61. Construction of Dormitories and Improvements.
- 107.62. Obligations; Pledge of Revenue.
- 107.63. Sale of Real Estate.
- 107.64. Required Dormitory Residence.
- 107.65. Management of Dormitories.
- 107.66. Requisition of Furnishings, Equipment, Etc.
- 107.67. Limitation on Obligations.
- 107.68. General Powers.

SUBCHAPTER A. GENERAL PROVISIONS**Section 107.01. Location and Purpose of University**

Texas Woman's University is an institution of higher education for women with its main campus at Denton. (R.S. Art. 2624.)

[Sections 107.02 to 107.20 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**§ 107.21. Board of Regents**

The board of regents of the university is composed of nine persons, four of whom shall be women, appointed by the governor with the advice and consent of the senate. Each member of the board shall be a qualified voter; and the members shall be selected from different portions of the state. The members hold office for staggered terms of six years, with the terms of three expiring every two years. (R.S. Art. 2625 (part); Art. 2907 (part).)

§ 107.22. Officers

The board shall biennially elect a chairman, a vice chairman, and other officers it deems necessary from among its members. (R.S. Art. 2625 (part).)

§ 107.23. Board Meetings; Minutes

The chairman shall convene the board to consider any business connected with the university whenever he deems it expedient. A full record shall be kept of all the board's proceedings. (R.S. Art. 2625 (part).)

§ 107.24. Compensation of Board

Members of the board shall receive the same compensation conferred by law on the board of regents of The University of Texas System. (R.S. Art. 2625 (part).)

[Sections 107.25 to 107.40 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 107.41. Extent of Powers

The board has the power incident to its position and to the same extent, as far as applicable, as is conferred on the board of regents of The University of Texas System. (R.S. Art. 2625 (part).)

§ 107.42. Staff

The board shall appoint a president of the university and other officers and employees it deems proper and shall fix their salaries. The board shall make rules and regulations for the government of the university's staff as it deems advisable. (R.S. Art. 2627 (part).)

§ 107.43. Departments

The board shall divide the course of instruction into departments and shall select careful and efficient professors in each department, in order to secure the best possible instruction in all areas of study. (R.S. Art. 2627 (part).)

§ 107.44. Rules and Regulations

The board shall adopt rules and regulations it deems necessary to carry out the purposes of the institution and to enforce the faithful discharge of the duties of all officers, professors, and students. (R.S. Art. 2627 (part).)

[Sections 107.45 to 107.60 reserved for expansion]

SUBCHAPTER D. DORMITORIES AND IMPROVEMENTS

§ 107.61. Construction of Dormitories and Improvements

The board may erect and equip, or may contract with any person, firm, or corporation for the erecting and equipping of dormitories and other improvements, which shall be located either on the campus or on land purchased or leased for the purpose by the board. The board may purchase or lease additional real estate for the purpose, or exchange or sell real estate for the purpose. (V.A.C.S. Art. 2628a, Sec. 2.)

§ 107.62. Obligations; Pledge of Revenue

In payment for the erecting and equipping of dormitories and improvements, the board may issue its obligations in the amount and on the terms deemed advisable by the board. As security the board may pledge the income from the dormitories and improvements erected or from other dormitories owned by the university, as well as all other revenue derived by the university from other sources, except revenue derived by means of appropriations made for a specific purpose by the legislature. (V.A.C.S. Art. 2628a, Sec. 3.)

§ 107.63. Sale of Real Estate

The board may sell or encumber any part of the campus or real estate owned by the university for the purpose of obtaining funds with which to erect and equip these improvements or for the purpose of securing the payment of its obligations issued to any person, firm, or corporation for the erecting or equipping of these improvements. (V.A.C.S. Art. 2628a, Sec. 4 (part).)

§ 107.64. Required Dormitory Residence

The board may adopt regulations it deems reasonable requiring any class or classes of students to reside in university dormitories or other buildings. (V.A.C.S. Art. 2628a, Sec. 4 (part).)

§ 107.65. Management of Dormitories

The board has absolute and sole management and control of university dormitories and other improvements. (V.A.C.S. Art. 2628a, Sec. 4 (part).)

§ 107.66. Requisition of Furnishings, Equipment, Etc.

The board may make requisition to the State Board of Control for furniture, furnishings, equipment, and appointments required for the proper use and enjoyment of improvements erected by the board, and the State Board of Control may purchase and pay for the furnishings, equipment, and appointments. (V.A.C.S. Art. 2628a, Sec. 5.)

§ 107.67. Limitation on Obligations

In the erecting, or in contracts for the erecting, of dormitories and improvements, the board may not in any manner incur any indebtedness against the university except as provided in Sections 107.62 and 107.63 of this code. The obligations incurred in the erecting of dormitories and improvements may never be personal obligations of the university but shall be discharged solely from the revenue or property authorized to be pledged for that purpose. (V.A.C.S. Art. 2628a, Sec. 6.)

§ 107.68. General Powers

The board may do any and all things necessary or convenient to carry out the purpose and intent of this subchapter. (V.A.C.S. Art. 2628a, Sec. 7.)

CHAPTER 108. LAMAR UNIVERSITY**SUBCHAPTER A. GENERAL PROVISIONS****Section**

108.01. Lamar University.

[Sections 108.02 to 108.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

108.11. Board of Regents.

108.12. Officers.

108.13. Compensation of Board.

108.14. President.

108.15. Seal.

[Sections 108.16 to 108.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

108.31. General Responsibilities.

108.32. Scope of Powers.

108.33. Eminent Domain.

108.34. Donations, Gifts, Endowments.

108.35. Spindletop Memorial Museum.

108.36. Educational Centers.

108.37. Student Center Fees.

SUBCHAPTER A. GENERAL PROVISIONS**Section 108.01. Lamar University**

Lamar University is a coeducational institution of higher education located in the city of Beaumont. (V.A.C.S. Art. 2637a, Secs. 1, 1a.)

[Sections 108.02 to 108.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**§ 108.11. Board of Regents**

The organization, control, and management of the university is vested in a board of nine regents, who shall be appointed by the governor and confirmed by the senate. The term of office of each regent shall be six years. Any vacancy that occurs on the board shall be filled by the governor for the unexpired term. The members of the board are removable by the governor for inefficiency or inattention to the duties of the office. Each member of the board shall take the constitutional oath of office. (V.A.C.S. Art. 2637b (part).)

§ 108.12. Officers

The board shall elect a chairman and any other officers they consider necessary. (V.A.C.S. Art. 2637b (part).)

§ 108.13. Compensation of Board

The members of the board shall serve without compensation, but shall receive actual expenses incurred in attending the meetings of the board, or in the transaction of any business of the university imposed by the board. (V.A.C.S. Art. 2637j, Sec. 4.)

§ 108.14. President

The board shall select a president for the university and shall fix his term of office, set his salary, and define his duties. The president shall be the executive officer for the board and shall work under its direction. He shall recommend the plan of organization and the appointment of employees of the university, and shall have the cooperation of the board and shall be responsible to the board for the general management and success of the university. (V.A.C.S. Art. 2637b (part).)

§ 108.15. Seal

The board may adopt an official seal. (V.A.C.S. Art. 2637a, Sec. 1b.)

[Sections 108.16 to 108.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**§ 108.31. General Responsibilities**

The board shall build and operate a state university of the first rank that compares favorably with the splendid colleges of Texas in the preparation of its youth for the varied interests and industries possible in the section of the state in which the university is located. The university shall be equipped adequately to do its work as well as other state colleges perform their functions. (V.A.C.S. Art. 2637d (part).)

§ 108.32. Scope of Powers

The university and the board have all the powers and authority conferred by law on state senior colleges in Texas and the Board of Regents, State Senior Colleges, to the extent that that law is applicable. (V.A.C.S. Art. 2637j, Sec. 1.)

§ 108.33. Eminent Domain

The university has the power of eminent domain and shall proceed under condemnation proceedings applicable to railroad companies under the laws of the state. (V.A.C.S. Art. 2637f.)

§ 108.34. Donations, Gifts, Endowments

The board may accept donations, gifts, and endowments for the university to be held in trust and administered by the board for the purposes and under any directions, limitations, and provisions declared in writing in the donation, gift, or endowment, to the extent that the directions, limitations, and provisions are not inconsistent with the objects and proper management of the university. (V.A.C.S. Art. 2637g.)

§ 108.35. Spindletop Memorial Museum

The board may create the Spindletop Memorial Museum and may administer it in accordance with the rules and regulations of the university. (V.A.C.S. Art. 2637j, Sec. 3.)

§ 108.36. Educational Centers

(a) The Board may establish an educational center of Lamar University in the counties of Jefferson and Orange, to be known as Lamar University at Jefferson and Orange Counties, to accept freshman and sophomore level students only. This educational center may be discontinued by the Coordinating Board, Texas College and University System, at its discretion.

(b) The board may make provision for adequate physical facilities to be provided at no cost to the State of Texas for use by the Lamar University at Jefferson and Orange Counties and may accept and administer, on terms and conditions satisfactory to the board, grants or gifts of money or property which are tendered by any reason for the use and benefit of the school; provided however, that any expenditure of funds, other than local funds or any such grants or gifts, for teaching classes not held on the Beaumont Campus, shall be only as specifically authorized in the General Appropriations Act.

(c) The board with approval of the Coordinating Board, Texas College and University System, may prescribe courses leading to customary degrees, and make other rules and regulations for the operation, control, and management of the Lamar University at Jefferson and Orange Counties as necessary for the school to be a first-class institution for freshman and sophomore students.

(d) Nothing in this section shall be construed to limit the powers of the board of regents of Lamar University as conferred by law. (H.B. No.130, 62nd Legis., Reg.Sess., 1971).

Added by Acts 1971, 62nd Leg., p. 3340, ch. 1024, Art. 2, § 9, eff. Sept. 1, 1971.

§ 108.37. Student Center Fees

The board of regents may levy a regular fixed student fee not to exceed \$10 per student for each semester of the long session and not to exceed

\$5 per student for each term of the summer session, against each student enrolled in the institution, as in their discretion may be just and necessary for the purpose of operating, maintaining, improving, and equipping the student center and acquiring or constructing additions to the student center. (H.B.No.787, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3344, ch. 1024, Art. 2, § 14, eff. Sept. 1, 1971.

CHAPTER 109. TEXAS TECH UNIVERSITY

SUBCHAPTER A. GENERAL PROVISIONS

Section

109.01. Texas Tech University.

[Sections 109.02 to 109.20 reserved for expansion]

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109.22. Board Members: Terms, Vacancies.

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109.77. Forfeiture and Other Remedies; Liens.

109.78. Filing of Documents and Payment of Royalties, Fees, and Rentals.

109.79. Forms, Regulations, Rules, and Contracts.

SUBCHAPTER A. GENERAL PROVISIONS**Section 109.01. Texas Tech University**

Texas Tech University is a coeducational institution of higher education located in the city of Lubbock. (R.S. Art. 2629 (part); V.A.C.S. Art. 2629a.)

[Sections 109.02 to 109.20 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**§ 109.21. Board of Regents**

The government, control, and direction of the policies of the university are vested in a board of nine regents, who shall be appointed by the governor with the advice and consent of the senate. (R.S. Art. 2330, Sec. (a).)

§ 109.22. Board Members: Terms, Vacancies

Except for the initial appointees, members hold office of terms of six years expiring on January 31 of odd-numbered years. In making the initial appointments, the governor shall designate three for terms expiring in 1971, three for terms expiring in 1973, and three for terms expiring in 1975. Any vacancy shall be filled for the unexpired portion of the term by appointment by the governor with the advice and consent of the senate. (R.S. Art. 2630, Sec. (b).)

§ 109.23. Chief Executive Officer: Selection, Duties

The board shall provide a chief executive officer, who shall devote his attention to the executive management of the university and who shall be directly accountable to the board for the conduct of the university. The board, when required by law to be the governing body of any other state educational institution or facility, shall also direct the chief executive officer to be directly responsible for the executive management of that other institution or facility. (R.S. Art. 2630, Sec. (c).)

[Sections 109.24 to 109.40 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**§ 109.41. Eminent Domain**

The board of regents has the power of eminent domain to acquire land needed to carry out the purposes of the university. (R.S. Art. 2632.)

§ 109.42. Residence for President

The board may purchase a house or may purchase land and construct a house suitable for the residence of the president of the university. (V.A.C.S. Art. 2632g.)

§ 109.43. Dormitories: Rules and Regulations

The board may adopt rules and regulations it deems advisable requiring any class or classes of students to reside in university dormitories or other buildings. (V.A.C.S. Art. 2632a, Sec. 4.)

§ 109.44. Research Park

(a) The board may plan, develop, and maintain a research park on a portion of the campus of the university. For this purpose, the board may

select and set aside on the campus a tract of land of approximately 150 acres.

(b) The board may subdivide the tract into lots and lease the lots to persons, firms, foundations, associations, corporations, and government agencies for the purpose of conducting research. Each lessee may construct buildings and facilities appropriate for research, subject to rules of the board.

(c) The board may execute any lease deemed favorable to the university, and the board shall establish standards of admission for tenant organizations, rental rates, and architectural and landscaping standards.

(d) Money received from the rental of sites in the research park shall be used to offset the expenses involved in developing the sites and providing utilities and services. Any excess of receipts over expenses shall be applied toward research activities undertaken in behalf of the university. The support and maintenance of the park shall never become a charge against or obligation of the State of Texas.

(e) The research park shall be used for research only, and the board shall prohibit manufacturing, social, political, religious, fraternal, and other uses. (V.A.C.S. Art. 2632h.)

§ 109.45. City Museum

(a) The board may rent, lease, or convey, for a sum of money to be determined by the board, a part of the campus, not to exceed four acres, to the city of Lubbock for the sole purpose of building, with bonds or current city taxes, and maintaining with city tax money, a history, science, and art museum.

(b) The board may rent or lease a building or any part of a building on the parcel of land to the city of Lubbock for the sole purpose of maintaining a history and art museum for a sum of money to be determined by the board.

(c) The board may dedicate for public use a street or streets leading to and connecting the parcel of land and building and to provide ingress and egress to and from a public highway and to and from adjacent parking lots.

(d) The board, at its discretion, may contract with the city of Lubbock for the staffing, operation, and maintenance of a history and art museum with funds provided by the city of Lubbock.

(e) The board may enter into contracts and agreements which are necessary and proper for carrying out the provisions of this section, provided that no expenditure of money by the board shall be made except as may be appropriated by the legislature. (V.A.C.S. Art. 2632e.)

§ 109.46. Lease of Land for Armory

(a) The board may lease to a suitable agency of the United States a portion of the campus, not to exceed five and one-half acres, for a period not to exceed 99 years, to be used as a site for the erection and maintenance of an armory building or other suitable building or buildings for the instruction of students in military and naval sciences and other subjects.

(b) The board may enter into lease contracts and other contracts and agreements which are necessary and proper in carrying out the provisions of this section. (V.A.C.S. Art. 2632c.)

§ 109.47. Lease of Land for National Guard Armory

(a) The board may select and lease a portion of the campus to the Texas National Guard for the purpose of erecting an armory and other buildings suitable for use by the Texas National Guard. The board may enter into a lease contract with the Texas National Guard Armory Board on

terms which are suitable and satisfactory to the board for a term of not more than 99 years.

(b) The board may select and set aside a tract of campus land, not in excess of 10 acres, to be used by the Texas National Guard as a drill ground.

(c) The board may permit the Texas National Guard Armory Board and the Texas National Guard and any of its subdivisions ingress upon and egress from the campus for the purpose of going to and from the armory and other buildings and the drill ground. (V.A.C.S. Art. 2632b.)

[Sections 109.48 to 109.60 reserved for expansion]

SUBCHAPTER D. MINERAL DEVELOPMENT IN UNIVERSITY LAND

§ 109.61. Mineral Leases; Disposition of Proceeds

(a) The board may lease for oil, gas, sulphur, or other mineral development to the highest bidder at public auction all or part of the lands under the exclusive control of the board owned by the State of Texas and acquired for the use of Texas Tech University and its divisions.

(b) Any money received by virtue of this section shall be deposited in the state treasury to the credit of a special fund to be known as the Texas Tech University special mineral fund, to be used exclusively for the university and its branches and divisions. However, no money shall ever be expended from this fund except as authorized by the general appropriations act. (V.A.C.S. Art. 2628a—9, Sec. 1.)

§ 109.62. Majority of Board to Act

A majority of the board has power to act in all cases under this subchapter except as otherwise provided in this subchapter. (V.A.C.S. Art. 2628a—9, Sec. 14 (part).)

§ 109.63. Subdivision of Land; Titles

(a) The board may have the lands surveyed or subdivided into tracts, lots, or blocks which, in their judgment, will be most conducive and convenient to an advantageous sale or lease of oil, gas, sulphur, or other minerals in the lands; and the board may make maps and plats which it deems necessary to carry out the purposes of this subchapter.

(b) The board may obtain authentic abstracts of title to the lands from time to time as it deems necessary and may take necessary steps to perfect a merchantable title to the lands. (V.A.C.S. Art. 2628a—9, Sec. 2.)

§ 109.64. Sale of Leases; Advertisements; Payments

(a) Whenever in the opinion of the board there is a demand for the purchase of oil, gas, sulphur, or other mineral leases on any tract or part of any tract of land which will reasonably insure an advantageous sale, the board shall place the oil, gas, sulphur, or other mineral leases on the land on the market in a tract or tracts, or any part of a tract, which the board may designate.

(b) The board shall have advertised a brief description of the land from which the oil, gas, sulphur, or other minerals is proposed to be leased. The advertisement shall be made by inserting in two or more papers of general circulation in this state, and in addition, the board may, in its discretion, cause the advertisement to be placed in an oil and gas journal published in and out of the state. The board may also mail copies of the proposals to the county judge of the county where the lands are located and to other persons the board believes would be interested.

(c) The board may sell the lease or leases to the highest bidder at public auction at the university in Lubbock at any hour between 10 a. m. and 5 p. m.

(d) The highest bidder shall pay to the board on the day of the sale 25 percent of the bonus bid, and the balance of the bid shall be paid within 24 hours after the bidder is notified that the bid has been accepted. Payments shall be made in cash, certified check, or cashier's check, as the board directs. The failure of the bidder to pay the balance of the amount bid will forfeit to the board the 25 percent paid. (V.A.C.S. Art. 2628a—9, Sec. 3.)

§ 109.65. Separate Bids; Minimum Royalty; Delay Rental

(a) A separate bid shall be made for each tract or subdivision of a tract.

(b) No bid shall be accepted which offers a royalty of less than one-eighth of the gross production of oil, gas, sulphur, and other minerals in the land bid upon, and this minimum royalty may be increased at the discretion of the board.

(c) Every bid shall carry the obligation to pay an amount not less than \$1 per acre for delay in drilling or development. The amount shall be fixed by the board in advance of the advertisement. The amount fixed shall be paid every year for five years unless in the meantime production in paying quantities is had upon the land or the land is released by the lessee. (V.A.C.S. Art. 2628a—9, Sec. 4.)

§ 109.66. Rejection of Bids; Withdrawal of Land

The board may reject any and all bids and may withdraw any land advertised for lease. (V.A.C.S. Art. 2628a—9, Sec. 14 (part).)

§ 109.67. Acceptance; Conditions and Provisions of Lease

(a) If, in the opinion of the board, any one of the bidders has offered a reasonable and proper price for any tract, which is not less than the price set by the board, the lands advertised may be leased for oil, gas, sulphur, and other mineral purposes under the terms of this section and subject to regulations prescribed by the board which are not inconsistent with the provisions of this section. In the event no bid is accepted by the board at public auction, any subsequent procedure for the sale of the leases shall be in the manner prescribed in the preceding sections.

(b) No lease shall be made by the board which will permit the drilling or mining for oil, gas, sulphur, or other minerals within 300 feet of any building on the land without the consent of the board. In making any lease on any experimental station or farm, the lease shall provide that the operations for oil, gas, and other minerals shall not in any way interfere with use of the land for university purposes and shall not cause the abandonment of the property or its use for experimental farm purposes. The lease shall also provide that the lessee operating the property shall drill and carry on his operations in such a way as not to cause the abandonment of the property for university purposes, and the leased property shall be subject to the use by the state for all university purposes, and the board shall continue to operate the university. (V.A.C.S. Art. 2628a—9, Sec. 5.)

§ 109.68. Acceptance and Filing of Bids; Yearly Payments; Termination of Lease

(a) If the board determines that a satisfactory bid has been received for the oil, gas, sulphur, or other mineral lands, it shall accept the bid and reject all others and shall file the accepted bid in the general land office.

(b) Whenever the royalties shall amount to as much as the yearly payments fixed by the board, the yearly payments may be discontinued.

(c) If before the expiration of five years oil, gas, sulphur, or other minerals have not been produced in paying quantities, the lease shall terminate unless extended as provided in Sections 109.70 and 109.71 of this code. (V.A.C.S. Art. 2628a—9, Sec. 6.)

§ 109.69. Award and Filing of Lease

If the board determines that a satisfactory bid has been received for the oil, gas, sulphur, or other minerals, it shall make an award to the bidder offering the highest price, and a lease shall be filed in the general land office. (V.A.C.S. Art. 2628a—9, Sec. 7(a).)

§ 109.70. Exploratory Term of Lease; Extension; Other Provisions

(a) The exploratory term of a lease as determined by the board prior to the promulgation of the advertisement shall not exceed five years, and each lease shall provide that the lease will terminate at the expiration of its exploratory term unless by unanimous vote of the board the lease is extended for a period of three years.

(b) The lease may be extended if the board finds that there is a likelihood of oil, gas, sulphur, or other minerals being discovered by the lessees, and that the lessees have proceeded with diligence to protect the interest of the state. If oil, gas, sulphur, or other minerals are being produced in paying quantities from the premises, the lease shall continue in force and effect as long as the oil, gas, sulphur, or other minerals are being so produced. No extension may be made by the board until the last 30 days of the original term of the lease.

(c) The lease shall include additional provisions and regulations prescribed by the board to preserve the interest of the state, not inconsistent with the provisions of this subchapter. (V.A.C.S. Art. 2628a—9, Sec. 7(b).)

§ 109.71. Extension of Leases

When in the discretion of the board it is deemed for the best interest of the state to extend a lease issued by the board, the board may by unanimous vote extend the lease for a period not to exceed three years, on the condition that the lessee shall continue to pay yearly rental as provided in the lease and shall comply with any additional terms which the board may see fit and proper to demand. The board may extend the lease and execute an extension agreement. (V.A.C.S. Art. 2628a—9, Sec. 7(c).)

§ 109.72. Control of Drilling and Production

The drilling for and the production of oil, gas, and other minerals from the lands shall be governed and controlled by the Railroad Commission of Texas and other regulatory bodies which govern and control other fields in this state. (V.A.C.S. Art. 2628a—9, Sec. 7(d).)

§ 109.73. Drilling Operations: Suspension of Rent; Continuance of Lease; Duty to Prevent Drainage

(a) If during the term of a lease issued under the provisions of this subchapter the lessee is engaged in actual drilling operations for the discovery of oil, gas, sulphur, or other minerals, no rentals shall be payable as to the tract on which the operations are being conducted as long as the operations are proceeding in good faith.

(b) In the event oil, gas, sulphur, or other minerals are discovered in paying quantities on any tract of land covered by a lease, then the lease as to that tract shall remain in force as long as oil, gas, sulphur, or other minerals are produced in paying quantities from the tract.

(c) In the event of the discovery of oil, gas, sulphur, or other minerals on any tract covered by a lease or on any land adjoining the tract, the lessee shall conduct such operations as may be necessary to prevent drainage from the tract covered by the lease to properly develop the same to the extent that a reasonably prudent man would do under the same and similar circumstances. (V.A.C.S. Art. 2628a—9, Sec. 8.)

§ 109.74. Title to Rights Purchased; Assignment; Relinquishment

(a) Title to all rights purchased may be held by the owners as long as the area produces oil, gas, sulphur, or other minerals in paying quantities.

(b) All rights purchased may be assigned. All assignments shall be filed in the general land office within 100 days from the date of the first acknowledgment thereof, accompanied by 10 cents per acre for each acre assigned. The assignment shall not be effective unless it is filed and the payment made.

(c) All rights to any whole tract or to any assigned portion thereof may be relinquished to the state at any time by having an instrument of relinquishment recorded in the county or counties in which the area is situated. The instrument of relinquishment shall be filed with the chairman of the board, accompanied by \$1 for each area assigned. The assignment shall not relieve the owner of any past-due obligations accrued on the lease.

(d) The board shall authorize the laying of pipeline and telephone line and the opening of roads deemed reasonably necessary in carrying out the purposes of this subchapter. (V.A.C.S. Art. 2628a—9, Sec. 9.)

§ 109.75. Payment of Royalties; Records; Report of Receipts

(a) If oil or other minerals are developed on any of the lands leased by the board, the royalty as stipulated in the sale shall be paid to the general land office in Austin on or before the last day of each month for the preceding month during the life of the rights purchased. The royalty payments shall be set aside in the state treasury as specified in Section 109.61 of this code and used as provided in that section.

(b) The royalty paid to the general land office shall be accompanied by the sworn statement of the owner, manager, or other authorized agent showing the gross amount of oil, gas, sulphur, or other minerals produced and sold off the premises and the market value of the minerals, together with a copy of all daily gauges, or vats, tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, vats, tanks, or pool and gas lines or gas storage. The books and accounts, receipts and discharges of all wells, tanks, vats, pools, meters, and pipelines, and all contracts and other records pertaining to the production, transportation, sale, and marketing of the oil, gas, sulphur, or other minerals shall at all times be subject to inspection and examination by any member of the board or any duly authorized representative of the board.

(c) The commissioner of the general land office shall tender to the board on or before the 10th day of each month a report of all receipts from the lease or sale of oil, gas, sulphur, or other minerals turned into the special fund in the state treasury during the preceding month. (V. A.C.S. Art. 2628a—9, Sec. 10.)

§ 109.76. Protection from Drainage; Forfeiture of Rights

(a) In every case where the area in which oil, gas, sulphur, or other minerals sold is contiguous or adjacent to lands which are not lands belonging to and held by the university, the acceptance of the bid and the sale made thereby shall constitute an obligation of the owner to adequately protect the land leased from drainage from the adjacent lands to

the extent that a reasonably prudent operator would do under the same and similar circumstances.

(b) In cases where the area in which the oil, gas, sulphur, or other minerals sold is contiguous to other lands belonging to and held by the university which have been leased or sold at a lesser royalty, the owner shall protect the land from drainage from the lands leased or sold for a lesser royalty.

(c) On failure to protect the land from drainage as provided in this section, the sale and all rights acquired may be forfeited by the board in the manner provided in Section 109.77 of this code for forfeitures. (V. A.C.S. Art. 2628a—9, Sec. 11.)

§ 109.77. Forfeiture and Other Remedies; Liens

(a) Leases granted under the provisions of this chapter are subject to forfeiture by the board by an order entered in the minutes of the board reciting the acts or omissions constituting a default and declaring a forfeiture.

(b) Any of the following acts or omissions constitutes a default:

(1) the failure or refusal by the owner of the rights acquired under this chapter to make a payment of a sum due, either as rental or royalty on production, within 30 days after the payment becomes due;

(2) the making of a false return or false report concerning production, royalty, drilling, or mining by the owner or his authorized agent;

(3) the failure or refusal of the owner or his agent to drill an offset well or wells in good faith, as required by the lease;

(4) the refusal of the owner or his agent to allow the proper authorities access to the records and other data pertaining to the operations authorized in this subchapter;

(5) the failure or refusal of the owner or his authorized agent to give correct information to the proper authorities, or to furnish the log of any well within 30 days after production is found in paying quantities; or

(6) the violation by the owner of any material term of the lease.

(b) The board may, if it so desires, have suit for forfeiture instituted through the attorney general.

(c) On proper showing by the forfeiting owner within 30 days after the declaration of forfeiture, the lease may be reinstated at the discretion of the board and upon terms prescribed by the board.

(d) In case of violation by the owner of the lease contract, the remedy of forfeiture shall not be the exclusive remedy, and the state may institute suit for damages or specific performance or both.

(e) The state shall have a first lien on oil, gas, sulphur, or other minerals produced in the leased area, and on all rigs, tanks, vats, pipelines, telephone lines, and machinery and appliances used in the production and handling of oil, gas, sulphur, or other minerals produced, to secure the amount due from the owner of the lease. (V.A.C.S. Art. 2628a—9, Sec. 12.)

§ 109.78. Filing of Documents and Payment of Royalties, Fees, and Rentals

(a) All surveys, files, copies of sale and lease contracts, and other records pertaining to the sales and leases authorized in this subchapter shall be filed in the general land office and shall constitute archives.

(b) Payment of all royalties, lease fees, rentals for delay in drilling or mining, filing fees for assignments and relinquishments, and all other payments shall be made to the commissioner of the general land office at

Austin. The commissioner shall transmit all payments received to the state treasurer for deposit to the credit of the Texas Tech University special mineral fund. (V.A.C.S. Art. 2628a—9, Sec. 13.)

§ 109.79. Forms, Regulations, Rules, and Contracts

The board shall adopt proper forms, regulations, rules, and contracts which, in its judgment, will protect the income from lands leased pursuant to this subchapter. (V.A.C.S. Art. 2628a—9, Sec. 14 (part).)

**CHAPTER 110. TEXAS TECH UNIVERSITY SCHOOL OF
MEDICINE AT LUBBOCK**

Section

- 110.01. Separate Institution.
- 110.02. Concurrent and Separate Powers.
- 110.03. General Powers.
- 110.04. Chief Executive Officer.
- 110.05. Courses Offered.
- 110.06. Agreements with Other Schools.
- 110.07. Physical Facilities.
- 110.08. Grants; Gifts.
- 110.09. Teaching Hospital.
- 110.10. Supervision by Coordinating Board.

Section 110.01. Separate Institution

Texas Tech University School of Medicine at Lubbock is a separate institution and not a department, school, or branch of Texas Tech University but is under the direction, management, and control of the Texas Tech University Board of Regents. (V.A.C.S. Art. 2632i, Sec. 1.)

§ 110.02. Concurrent and Separate Powers

The board of regents has the same powers of direction, management, and control over the medical school as they exercise over Texas Tech University. However, the board shall act separately and independently on all matters affecting the medical school as a separate institution. (V.A.C.S. Art. 2632i, Sec. 2.)

§ 110.03. General Powers

The board may make rules and regulations for the direction, control, and management of Texas Tech University School of Medicine as necessary for the school to be a medical school of the first class. (V.A.C.S. Art. 2632i, Sec. 3 (part).)

§ 110.04. Chief Executive Officer

The chief executive officer of Texas Tech University is also the chief executive officer of the medical school under the authority of Section 109.23 of this code. (New.)

§ 110.05. Courses Offered

The board may prescribe courses leading to customary degrees. (V.A.C.S. Art. 2632i, Sec. 3 (part).)

§ 110.06. Agreements with Other Schools

The board may, when in the best interests of medical education at the medical school, execute and carry out affiliation or coordinating agreements with any other entity or institution in the Lubbock area, Amarillo area, El Paso area, and the Odessa-Midland area to provide clinical, post-graduate, including internship and residency, or other levels of medical educational work for the medical school. Additionally, the board may execute and carry out affiliation or coordinating agreements with any other entity or institution necessary to conduct and operate the medical school as a first-class medical school. The board may utilize the facilities and staffs of other state biomedical units. (V.A.C.S. Art. 2632i, Sec. 4.)

§ 110.07. Physical Facilities

The board shall make provision for adequate physical facilities for the medical school, including library, auditorium, and animal facilities, for use by the medical school in its teaching and research programs. (V.A.C.S. Art. 2632i, Sec. 5.)

§ 110.08. Grants; Gifts

The board, in its discretion, may accept and administer grants and gifts from the federal government, any foundation, trust fund, corporation, or individual for the use and benefit of the medical school. (V.A.C.S. Art. 2632i, Sec. 6.)

§ 110.09. Teaching Hospital

A complete teaching hospital for the medical school shall be furnished at no cost or expense to the state. The state may never contribute any funds for the construction, maintenance, or operation of a teaching hospital for the medical school. (V.A.C.S. Art. 2632i, Sec. 7.)

§ 110.10. Supervision by Coordinating Board

The medical school is subject to the continuing supervision of and to the rules and regulations of the Coordinating Board, Texas College and University System, as provided by Chapter 61 of this code. (V.A.C.S. Art. 2632i, Sec. 8.)

CHAPTER 111. THE UNIVERSITY OF HOUSTON**SUBCHAPTER A. GENERAL PROVISIONS****Section**

- 111.01. University of Houston.
- 111.02. Applicability of General Laws.

[Sections 111.03 to 111.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 111.11. Board of Regents.
- 111.12. Appointments to Board; Terms.
- 111.13. Qualifications of Members; Oath.
- 111.14. Officers.

Section

- 111.15. Compensation.
- 111.16. Meetings.
- 111.17. Minutes.
- 111.18. President.
- 111.19. Personnel: Appointments, Salaries, Etc.

[Sections 111.20 to 111.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

- 111.31. Courses and Degrees.
- 111.32. Reports.
- 111.33. Suits.
- 111.34. Contracts.
- 111.35. Bylaws; Rules; Regulations.
- 111.36. Donations, Gifts, Endowments.
- 111.37. Lease and Management of Land.
- 111.38. Eminent Domain.
- 111.39. Acquisition and Disposition of Land.
- 111.40. Charges for Services to the Public; Reports.
- 111.41. Military Training.

[Sections 111.42 to 111.60 reserved for expansion]

SUBCHAPTER D. INSTITUTE FOR URBAN STUDIES

- 111.61. Creation of Institute; Location.
- 111.62. Administration.
- 111.63. Role and Scope of Institutes.
- 111.64. Correlation of Programs.
- 111.65. Receipt and Disbursement of Funds, Property, and Services.

[Sections 111.66 to 111.80 reserved for expansion]

**SUBCHAPTER E. THE UNIVERSITY OF HOUSTON
AT CLEAR LAKE CITY**

- 111.81. Establishment, Location.
- 111.82. Organization and Control.
- 111.83. Role and Scope.
- 111.84. Advisory Committee.
- 111.85. Authority of Coordinating Board.

SUBCHAPTER A. GENERAL PROVISIONS**Section 111.01. University of Houston**

The University of Houston is a coeducational institution of higher education located in the city of Houston. (V.A.C.S. Art. 2615g, Sec. 1.)

§ 111.02. Applicability of General Laws

The University of Houston is subject to the obligations and entitled to the benefits of all general laws of Texas applicable to all other state institutions of higher education, except where the general laws are in conflict with this chapter, and in the event of conflict this chapter prevails to the extent of the conflict. (V.A.C.S. Art. 2615g, Sec. 15.)

[Sections 111.03 to 111.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**§ 111.11. Board of Regents**

The organization and control of the university is vested in a board of nine regents. (V.A.C.S. Art. 2615g, Sec. 2 (part).)

§ 111.12. Appointments to Board; Terms

Members of the board are appointed by the governor with the advice and consent of the senate. The term of office of each regent shall be six years, except that in making the first appointments the governor shall appoint three members for six years, three members for four years, and three members for two years. Any vacancy that occurs on the board shall be filled for the unexpired term by appointment of the governor. (V.A.C.S. Art. 2615g, Sec. 2 (part).)

§ 111.13. Qualifications of Members; Oath

Each member of the board shall be a citizen of the State of Texas, and each member shall take the constitutional oath of office. (V.A.C.S. Art. 2615g, Sec. 2 (part).)

§ 111.14. Officers

The board shall elect one of the members chairman. They shall elect any other officers they deem necessary. (V.A.C.S. Art. 2615g, Sec. 2 (part).)

§ 111.15. Compensation

Members of the board shall serve without pay, but shall be reimbursed for their actual expenses incurred in attending the work of the board, subject to the approval of the chairman. (V.A.C.S. Art. 2615g, Sec. 4.)

§ 111.16. Meetings

The board shall hold a regular meeting at the campus of the university during the month of April annually, and at other times and places scheduled by the board or designated by the chairman. (V.A.C.S. Art. 2615g, Sec. 5.)

§ 111.17. Minutes

Full, accurate, and complete minutes of the board shall be kept and shall be open to inspection by the public at the university during regular business hours. Certified copies of any minutes shall be furnished on payment of a fee assessed by the board, which shall not exceed 25 cents per 100 words or fractional part thereof. (V.A.C.S. Art. 2615g, Sec. 2 (part).)

§ 111.18. President

The board shall select a president for the university, who shall be the executive officer for the board and shall work under its direction. The president shall recommend the plan or organization of the university and shall be responsible to the board for the general management and success of the university. (V.A.C.S. Art. 2615g, Sec. 2 (part).)

§ 111.19. Personnel: Appointments, Salaries, Etc.

The board may appoint and remove the president, any faculty member, or other officer or employee of the university when, in its judgment, the

interest of the university requires it. The board shall fix the respective salaries and duties of the officers and employees. (V.A.C.S. Art. 2615g, Sec. 6.)

[Sections 111.20 to 111.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 111.31. Courses and Degrees

The board shall prescribe courses leading to customary degrees offered in American universities of the first rank. However, the role and scope of the university, including its authorized departments and offerings of degree and certificate programs, are subject to the determination and approval of the Coordinating Board, Texas College and University System. All work done and all courses, degrees, certificates, and diplomas awarded shall conform to standard college requirements as promulgated by the accrediting associations that supervise matters of accreditation of universities and colleges in the State of Texas. (V.A.C.S. Art. 2615g, Sec. 7.)

§ 111.32. Reports

The board shall report in detail to the governor and to the Coordinating Board, Texas College and University System, annually, and to the legislature at the beginning of each regular session, on the following matters:

- (1) the receipts and disbursements of the university and the expenses incurred;
 - (2) the number of teachers and the salary of each member of the faculty;
 - (3) the number of employees and the salary and duties of each person;
 - (4) the number of students, classified by grades and departments; and
 - (5) a summary of the proceedings of the board and of the faculty.
- (V.A.C.S. Art. 2615g, Sec. 5a.)

§ 111.33. Suits

The board has the power to sue and be sued in the name of the University of Houston. Venue shall be in either Harris County or Travis County. The university shall be impleaded by service of citation on the president or any of its vice presidents. (V.A.C.S. Art. 2615g, Sec. 3 (part).)

§ 111.34. Contracts

All contracts of the university shall be approved by a majority of the board. (V.A.C.S. Art. 2615g, Sec. 3 (part).)

§ 111.35. Bylaws; Rules; Regulations

The board shall enact bylaws, rules, and regulations necessary for the successful management and government of the university. (V.A.C.S. Art. 2615g, Sec. 2 (part).)

§ 111.36. Donations, Gifts, Endowments

The board may accept donations, gifts, and endowments for the university to be held in trust and administered by the board for the purposes and under the directions, limitations, and provisions declared in writing in the donation, gift, or endowment, provided that the purposes and directions, limitations, and provisions are not inconsistent with the laws of the State of Texas or with the objectives and proper management of the university. (V.A.C.S. Art. 2615g, Sec. 9.)

§ 111.37. Lease and Management of Land

(a) The board may lease for oil, gas, sulphur, ore, and other mineral development all land under its exclusive control for the use of the university. The board may make and enter into pooling agreements, division orders, or other contracts necessary in the management and development of its land. All leases, pooling agreements, division orders, or other contracts entered into shall be on terms which the board deems in the best interest of the university. No lease shall be sold for less than the royalty and rental terms demanded at that time by the General Land Office in the sale of oil, gas, and other mineral leases of the public lands of the State of Texas.

(b) All money received under and by virtue of the leases and contracts executed for the management and development of the land, except revenue pledged to the payment of revenue bonds or notes, shall be deposited to the credit of a special fund created by the board. The board shall designate a depository for the special fund and shall accord the money deposited in it the same protection by the pledging of assets of the depository as is required for the protection of public funds. Money deposited in the special fund may be used by the board for the administration of the university, for payment of principal of and interest on any revenue bonds or notes issued by the board, and for any other use or purpose which in the judgment of the board may be for the good of the university. (V.A.C.S. Art. 2615g, Sec. 10.)

§ 111.38. Eminent Domain

The board has the power of eminent domain to acquire for the use of the university any land necessary and proper for carrying out its purposes as a state-supported institution of higher education. However, the power of eminent domain is restricted to the area within Harris County and any county whose boundaries are contiguous to Harris County. The board shall not be required to deposit a bond or the amount equal to the award of the commissioners as provided in Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended. (V.A.C.S. Art. 2615g, Sec. 10a.)

§ 111.39. Acquisition and Disposition of Land

The board may acquire by purchase, donation, or otherwise for the use of the university any land and other real property necessary or convenient for carrying out its purposes as a state-supported institution of higher education, and may sell, exchange, lease, or otherwise dispose of any land or other real property owned by or acquired for the university. However, the power of acquisition and disposition is restricted to the area within Harris County and the counties whose boundaries are contiguous to Harris County. The proceeds from any sale of land or other real property shall be added to the capital funds of the university. No new institutions, branches, or other operations of any kind shall be developed without specific authorization by the legislature. (V.A.C.S. Art. 2615g, Sec. 10b.)

§ 111.40. Charges for Services to the Public; Reports

(a) A schedule of minimum fees and charges shall be established by the board for services performed by any department of the university for students and the public. The schedule shall conform to the fees and charges customarily made for like services in the community. By way of example, but not as a limitation, are services of the hearing clinic, optometry clinic, reading clinic, and data processing and computing center.

(b) All fees and compensation derived from performing services shall be reported to the governor and to the Coordinating Board, Texas College

and University System, annually, to the legislature at the beginning of each regular session, and to the board as required by it. A brief statement of the firm, society, organization, or association using the facilities and the use made shall be included in each report. (V.A.C.S. Art. 2615g, Sec. 13.)

§ 111.41. Military Training

(a) Within its authority to contract with the Department of Defense for military training under Section 51.304 of this code, the board may lease armory land and buildings from and to the United States, and may acquire equipment and material necessary to accomplish the purposes of the courses in military training. The board may enter into insurance contracts for the protection of the federal government's rights in and to any property involved.

(b) No student of the university shall ever be required to take a military training course as a condition for entrance into the university or for graduation from the university. (V.A.C.S. Art. 2615g, Sec. 14.)

[Sections 111.42 to 111.60 reserved for expansion]

SUBCHAPTER D. INSTITUTE FOR URBAN STUDIES

§ 111.61. Creation of Institute; Location

The board of regents of the University of Houston shall establish and maintain an institute for urban studies in the Houston metropolitan area. (V.A.C.S. Art. 2606d, Sec. 1.)

§ 111.62. Administration

The administration of the institute for urban studies shall be under the direction of the president and board of regents of the University of Houston. The administrative officer of the institute shall be appointed by the president with the approval of the board. The administrative officer shall appoint the professional and administrative staff of the institute according to usual procedures and with the approval of the board. (V.A.C.S. Art. 2606d, Sec. 3.)

§ 111.63. Role and Scope of Institute

The institute of urban studies shall conduct basic and applied research into urban problems and public policy and make available the results of this research to private groups and public bodies and officials. It may offer consultative and general advisory services concerning urban problems and their solutions. According to the policies of the Coordinating Board, Texas College and University System, and with its approval, the institute may conduct instructional and training programs for those who are working in or expect to make careers in urban public service. The training programs may be conducted by the institute either in its own name or by agreement and cooperation with other public and private organizations. (V.A.C.S. Art. 2606d, Sec. 2 (part).)

§ 111.64. Correlation of Programs

In order to correlate the programs offered by the institute and the institute established by The University of Texas System under Subchapter B, Chapter 75, of this code, there shall be maintained regular liaison between the institutes concerning programs undertaken, a joint committee for future planning, and a union catalogue of research resources. This correlation shall be achieved by utilizing regular administrative channels,

including the staff of the Coordinating Board, Texas College and University System. (V.A.C.S. Art. 2606d, Sec. 2 (part).)

§ 111.65. Receipt and Disbursement of Funds, Property, and Services

In addition to state appropriations, the institute may receive and expend or use funds, property, or services from any source, public or private, under rules established by the president and the board and under applicable state laws. (V.A.C.S. Art. 2606d, Sec. 4.)

[Sections 111.66 to 111.80 reserved for expansion]

**SUBCHAPTER E. THE UNIVERSITY OF HOUSTON AT
CLEAR LAKE CITY**

Subchapter E consisting of sections 111.81 to 111.85 was added to Chapter 111 by Acts 1971, 62nd Leg., p. 3348, ch. 1024, Art. 2, § 23, effective Sept. 1, 1971.

§ 111.81. Establishment, Location

There is established in Harris County, as recommended by the Coordinating Board, Texas College and University System, a coeducational institution of higher education to be known as the University of Houston at Clear Lake City. The university shall be located on land currently owned by the University of Houston, either land acquired by donation under Chapter 37, Acts of the 60th Legislature, Regular Session, 1967, or land generally adjacent to that land and also owned by the University of Houston.

Added by Acts 1971, 62nd Leg., p. 3348, ch. 1024, Art. 2, § 23, eff. Sept. 1, 1971.

§ 111.82. Organization and Control

The organization and control of the university are vested in the board of regents of the University of Houston. With respect to this university, the board of regents has all the rights, powers, and duties that it has with respect to the organization and control of the University of Houston, except as otherwise provided by this Act. However, the University of Houston at Clear Lake City shall be maintained as a separate and distinct institution of higher education.

Added by Acts 1971, 62nd Leg., p. 3349, ch. 1024, Art. 2, § 23, eff. Sept. 1, 1971.

§ 111.83. Role and Scope

The university shall be organized to offer only junior, senior, and graduate-level programs.

Added by Acts 1971, 62nd Leg., p. 3349, ch. 1024, Art. 2, § 23, eff. Sept. 1, 1971.

§ 111.84. Advisory Committee

(a) There is established a permanent advisory committee consisting of the president, or a representative designated by him, of each tax-supported junior college and community college now existing or hereafter established in Harris, Galveston, Fort Bend, Waller, Montgomery, Liberty, Chambers, or Brazoria County.

(b) The advisory committee shall biennially elect a chairman from among its members and may elect other officers. It shall make rules to govern the calling of meetings and the transaction of its business.

(c) The advisory committee shall periodically study the overall needs of the region mentioned in Subsection (a) of this section for the development of programs and resources in higher education, and as a result of its studies shall make recommendations to the board of regents of the University of Houston regarding the development of the departments and degree programs of the University of Houston at Clear Lake City. The

board of regents shall give careful consideration to the recommendations of the advisory committee.

Added by Acts 1971, 62nd Leg., p. 3349, ch. 1024, Art. 2, § 23, eff. Sept. 1, 1971.

§ 111.85. **Authority of Coordinating Board**

The university is a general academic teaching institution, and as such it is subject to the authority of the Coordinating Board, Texas College and University System. (H.B.No.199, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3349, ch. 1024, Art. 2, § 23, eff. Sept. 1, 1971.

CHAPTER 112. PAN AMERICAN UNIVERSITY

SUBCHAPTER A. GENERAL PROVISIONS

Section

112.01. Pan American University.

[Sections 112.02 to 112.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

112.11. Board of Regents.

112.12. Term of Office.

112.13. Officers.

112.14. Expenses.

112.15. Meetings.

112.16. Minutes.

112.17. President.

112.18. Personnel: Appointments, Salaries, Etc.

[Sections 112.19 to 112.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

112.31. Rules and Regulations.

112.32. Suits.

112.33. Contracts.

112.34. Gifts, Endowments.

112.35. Eminent Domain.

112.36. Military Training.

112.37. Reports.

SUBCHAPTER A. GENERAL PROVISIONS

Section 112.01. Pan American University

Pan American University is a coeducational institution of higher education located in the city of Edinburg. (V.A.C.S. Art. 2619a, Sec. 1; Art. 2619b, Sec. 1.)

[Sections 112.02 to 112.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**§ 112.11. Board of Regents**

The organization and control of the university is vested in a board of nine regents appointed by the governor with the advice and consent of the senate. (V.A.C.S. Art. 2619a, Sec. 2 (part).)

§ 112.12. Term of Office

Members of the board hold office for staggered terms of six years, with the terms of three members expiring every two years. Any vacancy that occurs on the board shall be filled for the unexpired term by appointment of the governor. (V.A.C.S. Art. 2619a, Sec. 2 (part).)

§ 112.13. Officers

The board shall elect one member to be chairman and may elect any other officers it deems necessary. Each member shall take the constitutional oath of office. (V.A.C.S. Art. 2619a, Sec. 2 (part).)

§ 112.14. Expenses

Members of the board shall serve without pay, but shall be reimbursed for their actual expenses incurred in attending the work of the board, subject to the approval of the chairman. (V.A.C.S. Art. 2619a, Sec. 4.)

§ 112.15. Meetings

The board shall hold a regular meeting each year during the month of April on the campus of the university, and may meet at other times and places as scheduled by the board or called by the chairman. (V.A.C.S. Art. 2619a, Sec. 5.)

§ 112.16. Minutes

Accurate and complete minutes of the board shall be maintained and shall be open to public inspection at the university during regular business hours. Certified copies of any minutes shall be furnished on payment of a fee to be assessed by the board, not to exceed 25 cents per 100 words or fractional part of 100 words. (V.A.C.S. Art. 2619a, Sec. 2 (part).)

§ 112.17. President

The board of regents shall select a president, who shall be chief executive officer for the board and shall work under the board's direction. The president shall recommend the plan of organization of the university and is responsible to the board for the general management and success of the university. (V.A.C.S. Art. 2619a, Sec. 2 (part).)

§ 112.18. Personnel: Appointments, Salaries, Etc.

The board may appoint or remove the president, any faculty member, or any other officer or employee of the university when, in the judgment of the board, the best interests of the university require it. The board shall fix the salaries and duties of the officers and employees of the university. (V.A.C.S. Art. 2619a, Sec. 7.)

[Sections 112.19 to 112.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**§ 112.31. Rules and Regulations**

The board may adopt bylaws, rules and regulations necessary for the successful management and operation of the university. (V.A.C.S. Art. 2619a, Sec. 2 (part).)

§ 112.32. Suits

The board may sue or be sued in the name of Pan American University. Venue is in either Hidalgo County or Travis County. The university shall be impleaded by service of citation on the president, and legislative consent to these suits is granted. (V.A.C.S. Art. 2619a, Sec. 3 (part).)

§ 112.33. Contracts

All contracts of the university must be approved by a majority of the board of regents. (V.A.C.S. Art. 2619a, Sec. 3 (part).)

§ 112.34. Gifts, Endowments

The board may accept donations, gifts, and endowments for the university to be held in trust and administered by the board for the purposes and under any directions, limitations, and provisions that may be declared in writing in the donation, gift, or endowment, consistent with the laws of the state and the objectives and proper management of the university. (V.A.C.S. Art. 2619a, Sec. 15.)

§ 112.35. Eminent Domain

The board has the power of eminent domain, restricted to the boundaries of Hidalgo County, to acquire land for the use of the university which is necessary and proper for carrying out the purposes of the university. The board may not be required to deposit a bond or the amount equal to the award of the commissioners as required by Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended. If the power is exercised, the board shall determine the amount and character of interests in land and easements to be acquired. As against persons, firms, and corporations, or receivers or trustees of them, having the power of eminent domain, the board may condemn only an easement. (V.A.C.S. Art. 2619a, Sec. 3a.)

§ 112.36. Military Training

(a) Within its authority to contract with the Department of Defense for military training under Section 51.173 of this code, the board may lease armory land and buildings from and to the United States, and may acquire equipment and material necessary to accomplish the purposes of the courses in military training. The board may enter into insurance contracts for the protection of the federal government's rights in and to any property involved.

(b) No student of the university shall ever be required to take a military training course as a condition for entrance into or graduation from the university. (V.A.C.S. Art. 2619a, Sec. 18.)

§ 112.37. Reports

The board shall report the condition of the university annually to the governor, to the Coordinating Board, Texas College and University System, and to the legislature at the beginning of each regular session. The report shall set forth, in detail, receipts and disbursements; an itemized statement of all expenses for each year; the number of teachers and the salary of each member of the faculty; the number of employees and the general duties and salary received by each; the number of students, classified by grades and departments; and a summary of the proceedings of the board and faculty. (V.A.C.S. Art. 2619a, Sec. 6.)

CHAPTER 113. TYLER STATE COLLEGE**SUBCHAPTER A. GENERAL PROVISIONS****Section**

113.01. Tyler State College.

113.02. Role and Scope.

[Sections 113.03 to 113.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

113.11. Board of Regents.

113.12. Qualifications; Oath.

113.13. Terms of Office; Vacancies.

113.14. Compensation of Board.

113.15. Chairman; Bylaws.

113.16. Meetings.

113.17. Minutes.

[Sections 113.18 to 113.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

113.31. Rules and Regulations.

113.32. President.

113.33. Suits; Venue; Citation.

113.34. Reports.

113.35. Gifts and Grants.

113.36. Management of Property.

Chapter 113 was added to the Education Code by Acts 1971, 62nd Leg., p. 3358, ch. 1024, Art. 2, § 36, effective Sept. 1, 1971.

SUBCHAPTER A. GENERAL PROVISIONS**Section 113.01. Tyler State College**

There is created and established in the city of Tyler a coeducational institution of higher education to be known as Tyler State College. The college shall be organized to accept only junior-, senior-, and graduate-level students.

Added by Acts 1971, 62nd Leg., p. 3358, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.02. Role and Scope

The role and scope of the college shall be defined by the Coordinating Board, Texas College and University System.

Added by Acts 1971, 62nd Leg., p. 3358, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

[Section 113.03 to 113.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**§ 113.11. Board of Regents**

The organization, control, and management of the college is vested in a board of nine regents appointed by the governor and confirmed by the senate.

Added by Acts 1971, 62nd Leg., p. 3358, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.12. Qualifications; Oath

Each member of the board shall be a citizen of the State of Texas and shall take the constitutional oath of office.

Added by Acts 1971, 62nd Leg., p. 3358, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.13. Terms of Office; Vacancies

(a) Members of the board hold office for staggered terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year. In making the initial appointments, the governor shall designate three members for terms expiring in 1973, three for terms expiring in 1975, and three for terms expiring in 1977.

(b) Any vacancy on the board shall be filled for the unexpired term by appointment of the governor.

Added by Acts 1971, 62nd Leg., p. 3358, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.14. Compensation of Board

Members of the board serve without compensation but are entitled to reimbursement for actual expenses incurred in attending the work of the board.

Added by Acts 1971, 62nd Leg., p. 3358, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.15. Chairman; Bylaws

The board shall elect a chairman from among its membership and shall enact bylaws governing the conduct of the board.

Added by Acts 1971, 62nd Leg., p. 3358, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.16. Meetings

The board shall hold an annual meeting on the campus of the college during the month of April, and at other times and places scheduled by the board or designated by its chairman.

Added by Acts 1971, 62nd Leg., p. 3358, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.17. Minutes

The board shall cause accurate and complete minutes of its meetings to be maintained. The minutes shall be open to the public for inspection at the college during regular business hours, and certified copies of the minutes shall be furnished to anyone on payment of a fee set by the board.

Added by Acts 1971, 62nd Leg., p. 3359, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

[Sections 113.18 to 113.30 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**§ 113.31. Rules and Regulations**

The board shall promulgate rules and regulations necessary for the successful management and operation of the college.

Added by Acts 1971, 62nd Leg., p. 3359, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.32. President

The board may appoint and remove the president, any faculty member, or other officer or employee of the college and shall fix their respective salaries. The president is the executive officer of the college and is responsible for its general management. He shall recommend a plan of organization and orderly course development for the college.

Added by Acts 1971, 62nd Leg., p. 3359, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.33. Suits; Venue; Citation

The board may sue and be sued in the name of the college. Venue is in either Smith or Travis County. The college may be impleaded by service of citation on its president, and legislative consent to suits against the college is granted.

Added by Acts 1971, 62nd Leg., p. 3359, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.34. Reports

The board shall make reports to the coordinating board as required by law.

Added by Acts 1971, 62nd Leg., p. 3359, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.35. Gifts and Grants

The board may accept donations, gifts, and endowments for the college. They are to be held in trust and administered by the board according to the purposes, directions, limitations, and provisions declared in writing in the donation, gift, or endowment. The provisions of the gift, donation, or endowment shall be followed to the extent that they are not inconsistent with the laws of this state or with the objective and proper management of the college.

Added by Acts 1971, 62nd Leg., p. 3359, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

§ 113.36. Management of Property

The board is vested with the exclusive management of all property owned by the college. The board may make any agreements necessary to the effective management of the college's property. All money received shall be deposited in the state treasury to the credit of a special fund, which may be invested, and the principal and income of the fund may be expended, on appropriation by the legislature, for the administration of the college. (S.B.No.419, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3359, ch. 1024, Art. 2, § 36, eff. Sept. 1, 1971.

[Chapters 114 to 129 reserved for expansion]

SUBTITLE G. NON-BACCALAUREATE SYSTEM**CHAPTER 130. JUNIOR COLLEGE DISTRICTS****SUBCHAPTER A. GENERAL PROVISIONS****Section**

- 130.001. Supervision by Coordinating Board, Texas College and University System.
- 130.002. Extent of State and Local Control.
- 130.003. State Appropriation for Public Junior Colleges.
- 130.004. Authorized Types of Public Junior Colleges.
- 130.005. Change of Name to Community College.

[Sections 130.006 to 130.010 reserved for expansion]

SUBCHAPTER B. INDEPENDENT SCHOOL DISTRICT OR CITY JUNIOR COLLEGE

- 130.011. Establishment of Independent School District or City Junior College.
- 130.012. Petition to Establish.
- 130.013. Order to Establish.
- 130.014. Election.
- 130.015. Control of Independent School District or City Junior College.
- 130.016. Separate Board of Trustees in Certain Instances.
- 130.017. Petition to Divest School Board of Authority.
- 130.018. Separate Board of Trustees—Terms, Etc.

[Sections 130.019 to 130.030 reserved for expansion]

SUBCHAPTER C. UNION, COUNTY, OR JOINT-COUNTY JUNIOR COLLEGES

- 130.031. Establishment of Union, County, or Joint-County Junior College.
- 130.032. Restrictions.
- 130.033. Petition to Establish.
- 130.034. Tax Levy.
- 130.035. Legality of Petition.
- 130.036. Order to Establish.
- 130.037. Calling Election; Submission of Questions.
- 130.038. Election.
- 130.039. Election Returns, Canvass, and Result.
- 130.040. Board of Trustees: Union, County, or Joint-County Junior College.
- 130.041. Election of Trustees of Union, County, and Joint-County Junior College.
- 130.042. Original Board.
- 130.043. Organization.
- 130.044. Election of Trustees by the Position Method.

[Sections 130.045 to 130.060 reserved for expansion]

SUBCHAPTER D. CHANGES IN DISTRICT BOUNDARIES**Section**

- 130.061. Extension of Boundaries of a Junior College District Coextensive with an Independent School District.
- 130.062. Enlarged District: Creation; Resolution; Order.
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- 130.121. Tax Assessment, Equalization, and Collection.
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SUBCHAPTER H. TRANSFER OF ASSETS ON
DISSOLUTION OF DISTRICTS

- 130.131. Dissolution and Transfer of Property Upon Creation of Senior College.
130.132. Abolition of Junior College Districts.
130.133. Transfer of Properties of County Junior College Districts after Creation of Senior College.

The provisions of Chapter 130 were transferred from Chapter 51, originally entitled "Public Junior Colleges" as enacted by Acts 1969, 61st Leg., p. 2735, ch. 889, § 1, to consist of §§ 51.001 to 51.203, which were renumbered as §§ 130.001 to 130.133 by Acts 1971, 62nd Leg., p. 3278, ch. 1024, Art. 1, § 1, adding Title 3 to the Education Code.

SUBCHAPTER A. GENERAL PROVISIONS

Section 130.001. Supervision by Coordinating Board, Texas College and University System

(a) The Coordinating Board, Texas College and University System, referred to as the coordinating board, shall exercise general control of the public junior colleges of Texas.

(b) The coordinating board shall have the responsibility for adopting policies, enacting regulations, and establishing general rules necessary for carrying out the duties with respect to public junior colleges as prescribed by the legislature, and with the advice and assistance of the commissioner of higher education, shall have authority to:

(1) authorize the creation of public junior college districts as provided in the statutes, giving particular attention to the need for a public junior college in the proposed district and the ability of the district to provide adequate local financial support;

(2) dissolve any public junior college district which has failed to establish and maintain a junior college within three years from the date of its authorization;

(3) adopt standards for the operation of public junior colleges and prescribe the rules and regulations for such colleges;

(4) require of each public junior college such reports as deemed necessary in accordance with the coordinating board's rules and regulations; and

(5) establish advisory commissions composed of representatives of public junior colleges and other citizens of the state to provide advice and counsel to the coordinating board with respect to public junior colleges. (Originally Sec. 51.001.)

§ 130.002. Extent of State and Local Control

All authority not vested by this chapter or by other laws of the state in the coordinating board or in the Central Education Agency is reserved and retained locally in each of the respective public junior college districts or in the governing boards of such junior colleges as provided in the laws applicable. (Originally Sec. 51.002.)

§ 130.003. State Appropriation for Public Junior Colleges

(a) There shall be appropriated biennially from money in the state treasury not otherwise appropriated an amount sufficient to supplement local funds for the proper support, maintenance, operation, and improvement of those public junior colleges of Texas that meet the standards prescribed by this chapter. The sum shall be allocated on a basis and in a manner provided in Subsection (b) of this section.

(b) To be eligible for and to receive a proportionate share of the appropriation, a public junior college must:

(1) be certified as a public junior college as prescribed in Section 61.063 of this code;

(2) offer a minimum of 24 semester hours of vocational and/or terminal courses;

(3) have complied with all existing laws, rules, and regulations governing the establishment and maintenance of public junior colleges;

(4) collect, from each full-time and part-time student enrolled, matriculation and other session fees in the amounts required and provided by law for other state-supported institutions of higher education, except that the amount charged non-residents need not be greater than the amount so required by law on January 1, 1971; and

(5) grant when properly applied for, the scholarships and tuition exemptions provided for in this code; and

(6) nothing in this section shall be construed to alter, amend, or repeal Section 54.060 of this code.

(c) All funds allocated under the provisions of this code, with the exception of those necessary for paying the costs of audits as provided, shall be used exclusively for the purpose of paying salaries of the instructional and administrative forces of the several institutions and the purchase of supplies and materials for instructional purposes.

(d) Only those colleges which have been certified as prescribed in Section 61.063 of this code shall be eligible for and may receive any appropriation made by the legislature to public junior colleges. (Originally Sec. 51.003. Amended by Sec. 5, H.B.No.43, 62nd Legis., Reg.Sess., 1971.)

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 3355, ch. 1024, Art. 2, § 30, eff. Sept. 1, 1971.

The provisions of original section 51.003, as enacted by Acts 1969, 61st Leg., p. 2735, ch. 889, § 1, were renumbered as section 130.003 by Acts 1971, 62nd Leg., p. 3072, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971.

Subsection (b) of original section 51.003 was amended by Acts 1971, 62nd Leg., p. 1745, (H.B.No.43) ch. 511, § 5, eff. Aug. 15, 1971, which Act was repealed by Acts 1971, 62nd Leg., p. 3363, ch. 1024, art. 2, § 48, and its provisions incorporated by § 30 thereof as subsection (b) of this section.

Subsection (b) of original section 51.003 was amended by Acts 1971, 62nd Leg., p. 2898, ch. 958, § 1, made effective Aug. 15, 1971 by section 3 thereof, to read:

“(b) To be eligible for and to receive a proportionate share of the appropriation, a public junior college must:

“(1) be certified as a public junior college as prescribed in Section 51.002(a) (2) of this code;

“(2) offer a minimum of 24 semester hours of vocational and/or terminal courses;

“(3) have complied with all existing laws, rules, and regulations governing the establishment and maintenance of public junior colleges;

“(4) collect, from each full time and part-time student enrolled, matriculation and other session fees in the amounts required and provided by law for other State-supported institutions of higher education, except that the amount charged nonresidents need not be greater than the amount so required by law on January 1, 1971, and that notwithstanding the provisions of Item 1, Subsection (a), Sec-

tion 1, Chapter 196, Acts of the 43rd Legislature, 1933, as amended (Article 2654c, Vernon's Texas Civil Statutes), the minimum tuition charge for resident students shall be Twenty-five Dollars (\$25); and

"(5) grant when properly applied for, the scholarships and tuition exemptions provided for in this code."

§ 130.004. Authorized Types of Public Junior Colleges

(a) By complying with the provisions of the appropriate following sections of this chapter a public junior college and/or district of any one of the following classifications may be established:

- (1) an independent school district junior college;
- (2) a city junior college;
- (3) a union junior college;
- (4) a county junior college;
- (5) a joint-county junior college; and
- (6) a public junior college as a part or division of a regional college district.

(b) As used in this chapter, the two general authorized types of junior colleges are:

- (1) public junior colleges, which must consist of freshman and sophomore college work taught separately or in conjunction with the junior and senior years of high school and the course of study of such work must be submitted to and approved before being offered by the Coordinating Board, Texas College and University System; and
- (2) a junior college division of a regional college, as that type of institution is defined in Subchapter F of this chapter, which operates under the laws applicable to public junior colleges in Texas.

(c) All junior college districts, whether established, organized, and/or created, or attempted to be established, organized, and/or created, by vote of the people residing in those districts, or by action of the county school boards, or by action of the county judge, or by action of the commissioners courts, or by action of state educational officers or agencies, or by a combination of any two or more of the same, which districts have previously been recognized by either state or county authorities as junior college districts, are hereby validated in all respects as though they had been duly and legally established in the first instance. Without in any way limiting the generalization of the provisions above,

(1) all additions of territory to or detachments of territory from such junior college districts are hereby in all things validated, whether the same were accomplished or attempted to be accomplished by action of the county school boards, or by action of the county judge, or by action of the commissioners court, or by action of state educational officers or agencies, or by vote of the people residing in such territory, or by a combination of any two or more of the same;

(2) the boundary lines of all such junior college districts are hereby in all things validated; and

(3) all acts of the governing boards of such junior college districts ordering an election or elections, declaring the results of such elections, levying, attempting, or purporting to levy taxes for and on behalf of such districts, and all bonds issued and now outstanding, and all bonds previously voted but not issued, and all tax elections, bond elections, and bond assumption elections are hereby in all things validated; all revenue bonds issued and outstanding and all revenue bonds authorized but not yet issued for and on behalf of such districts are hereby in all things validated.

(d) Subsection (c) of this section shall not apply to any district which has previously been declared invalid by a court of competent jurisdiction of Texas, nor shall it apply to any district which is now involved in liti-

gation in any district court of Texas, the court of civil appeals, or the Supreme Court of Texas, in which litigation the validity of the organization or creation of such district or of the addition of territory to or detachment of territory from such districts is attacked, or to any district involved in proceedings now pending before the coordinating board in which proceedings the validity of the organization or creation of such district or of the addition of territory to or detachment of territory from such district is attacked. (Originally Sec. 51.004.)

§ 130.005. Change of Name to Community College

(a) The legislature hereby declares that the purpose of this section is to recognize that the institutions formerly known as public junior colleges are in fact comprehensive community colleges which serve their communities not only through university-parallel programs but also by means of occupational programs and other programs of community interest and need.

(b) Any reference to junior colleges or junior college districts in any law may be amended to read community college or community college district, respectively. (S.B.No.683, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3344, ch. 1024, Art. 2, § 13, eff. Sept. 1, 1971.

[Sections 130.006 to 130.010 reserved for expansion]

**SUBCHAPTER B. INDEPENDENT SCHOOL DISTRICT
OR CITY JUNIOR COLLEGE**

§ 130.011. Establishment of Independent School District or City Junior College

(a) An independent school district junior college may be established in either of the following types of units:

(1) any independent school district or city which has assumed control of its schools having in either case:

(A) an assessed property valuation of not less than \$12 million or having an income provided by endowment or otherwise that will meet the needs of the proposed junior college district as determined by the Coordinating Board, Texas College and University System; and

(B) an average daily attendance of the next preceding school year of not fewer than 400 students in the last four grades in the classified high schools within the district or city; or

(2) any independent school district or city which has assumed control of its schools having in either case:

(A) an assessed property valuation of \$20 million or more and the coordinating board finds that such district or city is in a growing section and that there is a public convenience and necessity for such junior college; and

(B) an average daily attendance of the next preceding school year of fewer than 400 but not fewer than 300 students in the last four grades of classified high schools.

(b) Any such college district established and maintained as provided in this chapter shall be known as a junior college district. (Originally Sec. 51.011.)

§ 130.012. Petition to Establish

Whenever it is proposed to establish a junior college district in any type of unit authorized by Section 130.011 of this code, a petition praying for an election, signed by not less than five percent of the qualified tax-

paying electors of the proposed district shall be presented to the school board of trustees of the district or city, which shall:

- (1) pass upon the legality and genuineness of the petition; and
- (2) forward the petition, if approved, to the coordinating board.
(Originally Sec. 51.012.)

§ 130.013. Order to Establish

It shall be the duty of the coordinating board with the advice of the commissioner of higher education to determine whether or not the conditions set forth in Sections 130.011 and 130.012 of this code have been complied with, and also whether, considering the geographic location of colleges already established, it is feasible and desirable to establish the proposed junior college district. It shall be the duty of the coordinating board to consider the needs and the welfare of the state as a whole, as well as the welfare of the community involved. The decision of the coordinating board shall be final and shall be transmitted through the commissioner of higher education to the local school board, along with the order of the coordinating board authorizing further procedure in the establishment of the junior college district, if the coordinating board endorses its establishment. (Originally Sec. 51.013.)

§ 130.014. Election

(a) If the coordinating board approves of the establishment of the junior college district, it shall then be the duty of the local school board to enter an order for an election to be held in the proposed territory within a time not less than 20 days and not more than 30 days after such order is issued, to determine whether or not such junior college district shall be created and formed. Such order shall:

- (1) contain a description of the metes and bounds of the junior college district to be formed; and
- (2) fix the date for the election.

(b) If a majority of the electors voting at the election shall be in favor of the creation of a junior college district, the district shall be deemed to be formed and created. The local school board shall make a canvass of the returns and declare the result of the election within 10 days after holding the election, and enter an order on the minutes of the board as to the result of the election. (Originally Sec. 51.014.)

§ 130.015. Control of Independent School District or City Junior College

A junior college established by an independent school district or city that has assumed control of schools already validated or established pursuant to the provisions of this chapter may be governed, administered, and controlled by and under the direction of the board of trustees of that independent or city school district. (Originally Sec. 51.015.)

§ 130.016. Separate Board of Trustees in Certain Instances

A junior college established by an independent school district or city that has assumed control of schools already validated or established pursuant to the provisions of this chapter may be governed, administered, and controlled by and under the direction of a separate board of trustees, which may be placed in authority by either of the following procedures:

- (1) the board of trustees of an independent school district or city school district which has the management, control, and operation of a junior college may divest itself of the management, control, and operation of that junior college so maintained and operated by the school board by appointing for the junior college district a separate board of trustees of nine members; or
- (2) the board of trustees of any independent school district or city school district which has the control and management of a junior col-

lege may be divested of its control and management of that junior college by the procedure prescribed in Section 130.017 of this code. (Originally Sec. 51.016.)

§ 130.017. Petition to Divest School Board of Authority

(a) On a petition signed by 10 percent of the qualified electors of the independent school district or city school district, the board of trustees shall call an election within 30 days after the petition has been duly presented for the purpose of determining whether the school board of trustees shall be divested of its authority as governing board of such junior college district.

(b) If a majority of the votes cast in the election are in favor of divesting the board of trustees of the independent school district or city school district of its authority as the governing board of the junior college district, the board of trustees shall, within 30 days after the official canvass of the election, appoint for the junior college district a separate board of trustees of nine members to serve as the governing board of the junior college district. (Originally Sec. 51.017.)

§ 130.018. Separate Board of Trustees—Terms, Etc.

In the event a separate board of trustees for the junior college district is appointed under either procedure set out in Section 130.016 or Section 130.017 of this code, the board of trustees, consisting of nine members, shall be organized and constituted pursuant to the provisions of Section 130.082 of this code, and be governed by the provisions thereof. (Originally Sec. 51.018.)

[Sections 130.019 to 130.030 reserved for expansion]

SUBCHAPTER C. UNION, COUNTY, OR JOINT-COUNTY JUNIOR COLLEGES

§ 130.031. Establishment of Union, County, or Joint-County Junior College

The following types of junior colleges may be established in the following units:

(1) a union junior college district may be established by two or more contiguous independent school districts or two or more contiguous common school districts or a combination composed of one or more independent school districts with one or more common school districts of contiguous territory meeting the requirements set out in Section 130.032 of this code;

(2) a county junior college district may be established by any county meeting the requirements set out in Section 130.032 of this code; and

(3) a joint-county junior college district may be established by any combination of contiguous counties in the state meeting the requirements set out in Section 130.032 of this code. (Originally Sec. 51.031.)

§ 130.032. Restrictions

In order for any territorial unit set out in Section 130.031 of this code to establish the applicable type of junior college, the proposed district must have a taxable property valuation of not less than \$30 million in the next preceding year and a total scholastic population of not less than 3,000 in the next preceding school year, provided a proposed district may

have less than 3,000 scholastics but not less than 2,000 scholastics in the next preceding school year:

- (1) if the proposed district includes a county which
 - (A) has a population of not less than 8,000 nor more than 8,500 inhabitants according to the last preceding federal census;
 - (B) has an assessed valuation of at least \$60 million; and
 - (C) does not have within its boundaries any state-supported senior college or university or all or part of a junior college district; and
- (2) if the Coordinating Board, Texas College and University System, finds that the proposed junior college district is in a growing section of the state and that there is a public convenience and necessity for the junior college. (Originally Sec. 51.032.)

§ 130.033. Petition to Establish

(a) Whenever it is proposed to establish a junior college of any type specified in Section 130.031 of this code a petition praying for an election therefor shall be presented in the applicable manner as prescribed in Subsections (b)-(d) of this section.

(b) In the case of a union junior college district, the petition shall be signed by not fewer than 10 percent of the qualified taxpaying electors of each of the school districts within the territory of the proposed junior college district and shall be presented to the county school board or county school boards of the respective counties if the territory encompasses more than one county; but if there is no county school board, the petition shall be presented to the commissioners court of the county or counties involved.

(c) In the case of a county junior college district, the petition shall be signed by not fewer than 10 percent of the qualified taxpaying electors of the proposed college district and shall be presented to the county school board of the county; but if there is no county school board, the petition shall be presented to the commissioners court of the county.

(d) In case of a joint-county junior college district, the petition shall be signed by not fewer than 10 percent of the qualified taxpaying electors of each of the proposed counties and shall be presented to the respective county school boards of the counties to be included in the proposed district; in case there is no county school board, the petition shall be presented to the commissioners court of the county or counties involved. (Originally Sec. 51.033.)

§ 130.034. Tax Levy

Any petition authorized by Section 130.033 of this code may also incorporate therein a request for the proper authorities, in the event an election is ordered for the creation of such district, to submit at the same election the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created, not to exceed the limits provided in Section 130.122 of this code. (Originally Sec. 51.034.)

§ 130.035. Legality of Petition

It shall be the duty of the county school board or boards or the commissioners court or courts petitioned in compliance with Section 130.033 of this code to:

- (1) pass upon the legality of the petition and the genuineness of the same; and
- (2) forward the petition, so approved, to the Coordinating Board, Texas College and University System. (Originally Sec. 51.035.)

§ 130.036. Order to Establish

It shall be the duty of the coordinating board, with the advice of the commissioners of higher education to determine whether or not the conditions set forth in the preceding sections of this chapter have been complied with, and also whether, considering the geographic location of colleges already established, it is feasible and desirable to establish a junior college district. It shall be the duty of the coordinating board in making its decision to consider the needs approving of the state, the welfare of the state as a whole, as well as the welfare of the community involved. The decision of the coordinating board shall be transmitted through the commissioner of higher education to the county school board or boards or the commissioners court or courts, as the case may be, along with the order of the coordinating board authorizing further procedure in the establishment of the junior college district. (Originally Sec. 51.036.)

§ 130.037. Calling Election; Submission of Questions

If the coordinating board approves the establishment of the junior college district, it shall then be the duty of the commissioners court or courts to enter an order for an election to be held in the proposed territory within a period of not less than 20 days and not more than 30 days after the order is issued, to determine whether or not such junior college district be created and formed; and in the event the petition for the creation of the junior college is accompanied by a request to submit the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created, then the election order shall also submit such questions in accordance with the petition; and except for the body that calls the election, the election as to bonds and taxes shall be held as provided in Section 130.101(b). The order shall contain a description of the metes and bounds of the junior college district to be formed and fix the date of the election. (Originally Sec. 51.037.)

§ 130.038. Election

A majority of the electors in the proposed district, voting in the election, shall determine the question of creation of the junior college district submitted in the order and the election of the original trustees. If the order also submits questions of issuing bonds and levying taxes, a majority of the electors voting in such election shall determine such question submitted in the order. In the case of a joint-county junior college district, or a union junior college district, the election shall, by mutual agreement of the court or courts, be held on the same day throughout the proposed district. (Originally Sec. 51.038.)

§ 130.039. Election Returns, Canvass, and Result

(a) The commissioners court or courts within 10 days after holding of an election shall make a canvass of the returns and declare the results of the election.

(b) The court or courts shall enter an order on the minutes of the court or courts as to the results. (Originally Sec. 51.039.)

§ 130.040. Board of Trustees: Union, County, or Joint-County Junior College

A union junior college, a county junior college, or a joint-county junior college shall be governed, administered, and controlled by and under the direction of a board of trustees of seven members. (Originally Sec. 51.040.)

§ 130.041. Election of Trustees of Union, County, and Joint-County Junior College

The original trustees of a union or a county junior college shall be elected at large from the junior college district by the qualified voters of the district under the rules and regulations provided for in Section 130.042 of this code. (Originally Sec. 51.041.)

§ 130.042. Original Board

(a) The original trustees shall be elected at the same election at which the creation of the district is determined.

(b) Any candidate desiring to be voted upon as a first trustee shall present a petition to the commissioners court or courts within three days before the order authorizing the election is issued by the commissioners court or courts, and shall accompany his petition with a petition signed by not less than two percent of the qualified voters in the district, requesting that his name be placed on the ticket as a candidate for trustee.

(c) The seven candidates for junior college trustee receiving the highest number of votes at the election shall be declared trustees of the district. (Originally Sec. 51.042.)

§ 130.043. Organization

After the election of the original trustees, the board of trustees shall be organized and constituted, pursuant to the provisions of Section 130.082 of this code and be governed by the provisions thereof. (Originally Sec. 51.043.)

§ 130.044. Election of Trustees by the Position Method

(a) The board of trustees of a district may, by a majority vote of the trustees, if a quorum is present and voting, adopt a numbered position system of electing members to the board.

(b) If the board adopts a numbered position system, candidates are voted on and elected separately for positions on the board according to the number of the position to which they seek election. The official ballots shall contain:

- (1) the phrase "Official Ballot for the Purpose of Electing Trustees";
- (2) the name of the junior college district;
- (3) the number of each position to be filled; and
- (4) the list of candidates under the position to which they seek election.

(c) Within 10 days from the date of adoption of the numbered position system, the trustees shall determine by lot which position each will hold on the board. The members in Class 1 shall draw for positions one and two; the members in Class 2 shall draw for positions three and four; and the members in Class 3 shall draw for positions five, six, and seven.

(d) A person desiring election to a numbered position on the board must, at least 30 days before the election, file with the board of trustees a written notice of his candidacy, designating the number of the position on the board of trustees for which he desires to become a candidate, and requesting that his name be placed on the ballot. Each candidate who files notice is entitled to have his name printed on the official ballot beneath the number of the position designated in his notice. A person who fails to file the notice required by this section may not have his name printed on the official ballot. A candidate is eligible to have his name printed on the ballot under only one position to be filled at the election.

(e) In the election each voter may vote for only one candidate for each numbered position. The candidate receiving the most votes for each numbered position voted on in the election is entitled to serve as a trustee on the board, in the position to which he is elected.

(f) Notice of an election in a district must be given in the manner and for the time required under the law authorizing the creation of the district, except where there is a conflict with the provisions of this section, then this section is controlling. (V.A.C.S. Art. 2815m, Sec. 1a.)

[Sections 130.045 to 130.060 reserved for expansion]

SUBCHAPTER D. CHANGES IN DISTRICT BOUNDARIES

§ 130.061. Extension of Boundaries of a Junior College District Coextensive with an Independent School District

The district boundaries of an independent school district junior college shall automatically be extended so that the boundary lines of the two districts, independent school district and junior college district, shall remain identical when:

- (1) the junior college district was created with the same boundary lines as an independent school district;
- (2) the boundaries of the independent school district are extended by consolidation, attachment of territory, or otherwise; and
- (3) the board of trustees of the independent school district is also the governing board of the junior college. (Originally Sec. 51.061.)

§ 130.062. Enlarged District: Creation; Resolution; Order

(a) If the creation of the junior college district and the extension of the boundaries of the independent school district both occurred prior to March 17, 1950, the added territory of the independent school district may be brought into the junior college district in the manner prescribed by this section.

(b) A petition requesting that such territory be added to the junior college district signed by a majority of the qualified property taxpaying voters of the territory may be presented to the governing board of the junior college district.

(c) The board shall determine whether the petition is signed by the required majority, based upon the latest approved tax rolls of the independent school district, and if such determination is affirmative and if the board shall also determine that the facilities of the junior college district may be extended to cover adequately the scholastics of the added territory, the board shall pass an order admitting such territory. The order shall describe by metes and bounds the junior college district as extended; and a copy of the order shall be filed with the county superintendent. Thereafter, the territory shall be a part of the junior college district for all intents and purposes. (Originally Sec. 51.062.)

§ 130.063. Extension of Junior College District Boundaries for Junior College Purposes Only

Territory consisting of school districts or parts of school districts adjoining or lying adjacent to any junior college district may be annexed to the junior college district for junior college purposes only, by either contract or election. (Originally Sec. 51.063.)

§ 130.064. Annexation by Contract

If the annexation is by contract, a petition shall be presented to the governing board of any junior college district, executed by all property owners of all property situated in the territory proposed for annexation. The petition shall contain a legally sufficient description of the territory proposed for annexation. The governing board of the junior college dis-

trict, if it deems the annexation to be in the best interest of the district, may effect the annexation by:

(1) entering its order authorizing the annexation of the territory by contract; and

(2) then entering into a written agreement duly executed and acknowledged by all persons, corporations, and entities owning property within the territory. (Originally Sec. 51.064.)

§ 130.065. Annexation by Election

(a) If the annexation is by election, a petition signed by five percent of the property taxpaying electors in the territory seeking to be annexed shall be presented to the county school board of the county, or to the commissioners court of the county in case there is no county school board.

(b) The petition shall contain a legally sufficient description of the territory proposed for annexation, and shall be accompanied by a certified copy of an order by the governing board of the junior college district affected approving the proposed annexation of the territory to the junior college district for junior college purposes only.

(c) The county school board, or the commissioners court, shall issue an order for an election to be held in the territory proposed for annexation, not less than 20 nor more than 30 days from the date of the order, and shall give notice of the date of the election by posting notices of such election in three public places within the territory proposed for annexation.

(d) Only those legally qualified electors residing in the territory proposed for annexation shall be permitted to vote.

(e) The county school board, or the commissioners court shall canvass the returns at a meeting held not more than five days after the election. If the votes cast in the election show a majority in favor of annexation, the territory shall be declared annexed to the junior college district for junior college purposes only.

(f) The county school board or commissioners court shall cause a certified copy of the order to be transmitted to the governing board of the junior college district.

(g) At the next regular or special meeting of the governing board of the junior college district, the board shall, in the event of annexation by election, enter its order concurring in the order of the county school board or the commissioners court and shall enter an order redefining the boundary lines of the junior college district as enlarged and extended, and shall cause the order to be recorded on the minutes of the board of the junior college district. (Originally Sec. 51.065.)

§ 130.066. Adding Contiguous Territory to a Junior College District

(a) Any territory may be included within the boundaries of a junior college district, herein called "district," for junior college purposes, in the manner hereinafter specified; provided, the territory to be included is contiguous to the district in which such territory is to be included and has been laid out by the Coordinating Board, Texas College and University System, as a service area for assisting junior colleges.

(b) Upon presentation of a petition, signed by 50, or a majority, whichever number is smaller, of the qualified electors residing in the territory proposed for inclusion in a district, to the governing body of the district requesting that the boundaries of the district be changed to include the territory described in said petition, such governing body may, in its discretion, order an election to be held within the boundaries of the entire district as proposed to be changed on the question of whether the boundaries of the district shall be changed to include the proposed territory. The ballots for such election shall have printed thereon "For" and

"Against" boundary change. All qualified electors residing within the boundaries of the entire district as proposed to be changed shall be qualified to vote at such an election.

(c) The governing body of the district calling an election hereunder shall give notice of any such election by causing a substantial copy of its order calling the election to be posted in at least three public places within the boundaries of the district as proposed to be changed and published at least one time in a newspaper of general circulation within such boundaries. Provided, however, if any railroad right-of-way or other property is located within such territory, additional notice shall be given by certified mail, to the railroad company, at the address shown on the latest county tax roll. Such posting, such publication, and such certified mail notice shall be done at least 30 days prior to the date on which the election is to be held.

(d) Except as otherwise provided herein, all elections held hereunder shall be governed by the provisions relating to bond elections held by independent school districts. The order calling the election may provide that the entire district as proposed to be changed shall constitute one election precinct or such order may provide for more than one election precinct.

(e) The returns of any such election shall be canvassed by the governing body of the district and if a majority of persons residing in the district and voting at the election and a majority of the persons residing in the territory proposed to be annexed and voting at the election vote for the boundary change, the governing body of the district shall, in its order canvassing such returns, declare the boundaries of the district changed to include the territory described in the petition theretofore presented to them. Such order may also include the name by which the district as changed shall be known.

(f) At the next regular election held in the junior college district after territory is added to the district under this section, the qualified electors shall elect a new board of trustees. To continue in office, members of the present board of trustees must be reelected at this election.

(g) This section is cumulative of all other laws on the subject, but this section is wholly sufficient authority within itself for the inclusion of territory in the boundaries of a district and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions or limitations contained therein, except as herein specifically provided in this section. However, the governing body of any district may use the provisions of any other laws, not in conflict with the provisions of this section, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this section. (V.A.C.S., Art. 2815h—1b.)

§ 130.067. Annexation of County-line Districts for Junior College Purposes

(a) Parts of county-line school districts may be annexed to adjacent county or joint-county junior college districts for junior college purposes only, as provided in this section.

(b) The county or joint-county junior college district as originally created and organized must have included in its boundaries a part of a county-line school district, and the part of the county-line school district to be annexed is not included in any other junior college district.

(c) The county or joint-county junior college districts to which this section is applicable are those where the junior college district as originally created and organized had the same boundaries as a county or as a group of contiguous counties and included all of the territory in a county or group of counties and did not include a part of any county without including the entire territory of such county in such junior college district.

(d) A "county-line school district" as used in this section is any type of public school district created or organized under general or special laws of Texas, which includes within its boundaries territory that extends into or is located in two or more counties of Texas. (Originally Sec. 51.066.)

§ 130.068. Annexation of Non-included Parts of Counties

(a) The non-included portion or portions of such county-line districts may be annexed to the county or joint-county junior college district by either of two methods as provided by Subsections (b) and (c) of this section.

(b) On the petition of 20 or a majority of the legally qualified voters residing in that part of a county-line district not a part of a junior college district as described in Section 130.067 of this code praying for the annexation for junior college purposes only, of that part of the county-line school district to the junior college district in which the remainder of the county-line district is a part, the county judge of that county which has jurisdiction of the county-line school district shall issue an order for an election to be held in the non-included portion of the county-line school district praying to be annexed to the county or joint-county junior college district. The county judge shall give notice of the date of the election by posting notices at three public places in the part of the county-line school district wherein the election is to be held. Only those legally qualified voters residing in that part of the county-line school district shall be permitted to vote. The commissioners court shall at its next meeting canvass the returns of the election, and if the votes cast in the election show a majority in favor of annexation, then the court shall declare that part of the county-line school district annexed to the junior college district for junior college purposes only. The court shall cause certified copies of the order to be transmitted to the commissioners court of every county in which the junior college district and the county-line school district have territory, and each court shall make orders concurring in the order and shall cause them to be entered on the minutes of each commissioners court.

(c) Where a petition, signed by a majority of the legally qualified voters residing in that part of a county-line school district praying for annexation for junior college purposes only, of that part of the county-line school district to the junior college district in which the remainder of the county-line district is a part, is presented to the county judge of that county which has jurisdiction of the county-line school district together with a certified copy of an order by the governing board of the junior college district approving the proposed annexation to the junior college district for junior college purposes only; instead of ordering an election to be held as provided in Subsection (b) of this section, the county judge shall certify the filing of the petition and order to the commissioners court. The court at its next meeting shall pass an order declaring such non-included part of the county-line school district annexed to the junior college district for junior college purposes only and cause certified copies of the order to be transmitted to the commissioners court of every county in which the junior college district and the county-line school district have territory. Each such court shall make orders concurring in the order and cause same to be entered on the minutes of each commissioners court. (Originally Sec. 51.067.)

§ 130.069. Disannexation of Overlapped Territory

(a) All junior college districts whose boundaries have or may hereafter become established so that they include territory which prior to such establishment lay, and shall continue to lie, within the boundaries of another junior college district shall have the power to disannex such overlapped territory.

(b) Upon certification by the governing board of such a junior college district to the county board of school trustees of the county in which its college is located that such an overlapping condition exists, the county board may by resolution disannex the overlapped territory from the district, describing such territory by metes and bounds. (Originally Sec. 51.068.)

§ 130.070. Annexation by District 100 Miles from Nearest Junior College

(a) As used in this section, the term "eligible junior college District" is defined as and means any junior college district which:

- (1) has boundaries located entirely within one county and contains an area which is less than 50 percent of the area of such county; and
- (2) accepts enrollment from students residing outside such junior college district but within such county; and
- (3) is located a distance of at least 100 miles from the nearest junior college educational facilities operated by another junior college district.

(b) The governing body of an eligible junior college district is authorized to change the boundaries of such eligible junior college district by annexing all the territory contained in the county in which it is located, in accordance with the following procedure:

(1) an application shall be filed by an eligible junior college district with the Coordinating Board, Texas College and University System, asking approval by said board of the proposed annexation of such territory;

(2) if such approval is given by order or resolution of the Coordinating Board, Texas College and University System, the governing body of the eligible junior college district is authorized to order an election to be held in and throughout the entire county in which it is located, being the area as a whole constituting the eligible junior college district and the territory proposed to be annexed, on the proposition of whether or not such territory shall be annexed. Such election shall be held in accordance with law, and the election order shall set forth the date of the election, the polling place or places, and any other matters deemed necessary or advisable by such governing body. Notice of said election shall be given by publishing a substantial copy of the election order one time at least 10 days prior to the election, in a newspaper having general circulation in the county in which the eligible junior college district is located;

(3) the governing body of such eligible junior college district shall receive and canvass the returns of said election, and if a majority of the electors voting at said election should vote in favor of such annexation, the governing body of the eligible junior college district is authorized to annex all the territory contained in the county in which it is located by passing an order to that effect, whereupon the boundaries of such junior college district shall be changed and extended to be identical with those of such county.

(c) The annexation of territory by an eligible junior college district pursuant to this section does not create a new junior college district, and the junior college district whose boundaries have been so changed and extended by annexation shall continue to exist as before, but over and with the changed boundaries. The governing board of an eligible junior college district, after annexation of territory pursuant to this section, shall continue to be the governing board of such junior college district; provided that such governing board shall order an election to be held on the first Saturday in April of the next even-numbered year, at which time a board of trustees consisting of seven members shall be elected from such junior college district in accordance with the procedures set

forth in Section 130.082, Texas Education Code, and thereafter such section shall be applicable to such junior college district. (H.B.No.743, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3345, ch. 1024, Art. 2, § 18, eff. Sept. 1, 1971.

Acts 1971, 62nd Leg., p. 3335, ch. 1024, art. 2, which by section 18 added this section provided in sections 45 and 47:

"Sec. 45. Each section of this article takes effect only if and when the legislation on which it is based takes effect, but not earlier than September 1, 1971.

"Sec. 47. This article is intended as a codification only, and nothing in this article is intended to effect any substantive change in the law."

[Sections 130.071 to 130.080 reserved for expansion]

SUBCHAPTER E. BOARDS OF TRUSTEES OF JUNIOR COLLEGE DISTRICTS

§ 130.081. Governing Board of Junior College of Independent School District

In each junior college district which is controlled and managed by, and under the jurisdiction of, the governing board of an independent school district or a city school district, such governing board shall be constituted and chosen in accordance with the laws of this state applicable to the governing board of such independent school district or city school district. (Originally Sec. 51.071.)

§ 130.082. Governing Board of Junior College of Other than Independent School District

(a) Except as provided by Section 130.081 or another section of this subchapter, the governing boards of all junior college districts shall be constituted and chosen as described in the provisions of this section.

(b) The official name of the governing board of the junior college district shall be the board of trustees.

(c) The official name of a junior college district shall be the "_____ Junior College District" and the board shall designate an appropriate and locally pertinent descriptive word or words to be filled in the aforesaid blank (and may change such designation when deemed advisable) by resolution or order; provided that no two districts shall have the same or substantially similar names. All resolutions or orders designating or changing names shall be filed immediately with the Coordinating Board, Texas College and University System, and the first name filed shall have priority, and the district shall be advised of any previous filing of any identical or substantially similar name. The name of any junior college district existing on the effective date of this code shall remain the same until and unless it is changed pursuant hereto, and no other district shall use the name of any such existing district.

(d) The number of members or trustees of the governing board shall be either seven or nine, in accordance with the laws applicable to the junior college district on the effective date of this code or on the date of the creation of a new district or a new board. Any seven-member board may be increased to nine, and the two additional members shall be appointed by resolution or order of the board for terms of office as prescribed in Subsection (e) of this section. Any vacancy occurring on the board through death, resignation, or otherwise, shall be filled by appointment by resolution or order of the board, and any person so appointed shall serve until the expiration of the term of office for which the vacating member of the board had been elected or appointed. Each member of the board shall be a resident, qualified voter of the district and shall take

the proper oath of office before taking up the duties thereof. Members of a board shall not receive any remuneration or emolument of office, but they shall be entitled to reimbursement for their actual expenses incurred in performing their duties, to the extent authorized and permitted by the board. The board shall elect one of its members as president of the board, and the president shall preside at meetings of said board and perform such other duties and functions as are prescribed by the board. The president of the board shall have a vote the same as the other members. The board shall elect a secretary of the board who may or may not be a member of the board, and who shall be the official custodian of the minutes, books, records, and seal of said board, and who shall perform such other duties and functions as are prescribed by the board. The board shall be authorized to elect any other officers as deemed necessary or advisable. Officers of the board shall be elected at the first regular meeting of the board following the regular election of members of the board in even-numbered years, or at any time thereafter in order to fill a vacancy. Said board shall be authorized to appoint or employ such agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of said board; and to employ a president, dean, or other administrative officer, and upon the president's recommendation to employ faculty and other employees of the junior college. Said board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with this section.

(e) The basic term of office of a member of the board shall be six years, and one-third of the members of the board shall be elected at large in the district at regular elections to be held on the first Saturday in April in each even-numbered year; provided that with a seven-member board two members shall be elected in two consecutive even-numbered years and three members shall be elected in the following even-numbered year. The members of each board in office at the effective date of this act, and all subsequent members of the board, shall remain in office until the expiration of the terms for which they were elected or appointed, and until their successors shall have been elected and qualified; provided that where any existing board has held its regular elections for members of the board in odd-numbered years prior to the effective date of this act, the board shall nevertheless hold its next regular election on the first Saturday in April of the next even-numbered year following the effective date of this act, and the term of office of each incumbent member of the board shall, in effect, be lengthened by one year so as to comply with the foregoing provisions of this act. Upon the creation of a new board, or in any other situation where necessary, the members of the board shall choose by lot the terms for which they shall serve, so as to comply with the foregoing provisions. If a board is increased from seven to nine members, one of the members shall be appointed to serve until the first election at which two members otherwise would have been elected, and the other shall be appointed to serve until the second election at which two members otherwise would have been elected, and three members shall be elected for six-year terms at each election.

(f) Members of a board shall be elected at large from each junior college district at regular elections to be called and held by the board for such purpose, at the expense of the district, on the first Saturday in April in each even-numbered year. Said elections shall be held in accordance with the Texas Election Code except as hereinafter provided, and all resident, qualified electors of the district shall be permitted to vote. Each such election shall be called by resolution or order of the board, and notice of each such election shall be given by publishing an appropriate notice, in a newspaper of general circulation in the district,

at least 10 days prior to the date of the election, setting forth the date of the election, the polling place or places, the numbers of the positions to be filled, the candidates for each position and any other matters deemed necessary or advisable.

(g) The board shall designate a number for the position held by each member of the board, from one upward in consecutive numerical order in such manner that the lowest numbers shall be assigned to the members whose terms of office expire in the shortest length of time, provided that any such position number designations on existing boards under existing law at the effective date of this act shall remain in effect. At each election candidates shall be voted upon and be elected separately for each position on the board, and the name of each candidate shall be placed on the official ballot according to the number of the position for which he or she is running. A candidate receiving a majority of the votes cast for all candidates for a position shall be declared elected. If no candidate receives such a majority, then the two candidates receiving the highest number of votes shall run against each other for the position. The run-off election for all positions shall be held on the last Saturday in April and shall be ordered, notice thereof given, and held, as provided herein for regular elections. Any resident, qualified elector of the district may have his or her name placed as a candidate on the official ballot for any position to be filled at each regular election by filing with the secretary of the board a written application therefor signed by the applicant, not less than 30 nor more than 60 days prior to the date of the election. Such application must state the number of the position for which he or she is a candidate, or the name of the incumbent member of the board holding the position for which he or she desires to run. The location on the ballot of the names of candidates for each position shall be chosen by lot by the board. A candidate shall be eligible to run for only one position at each election.

(h) Notwithstanding anything in this code to the contrary, the provisions of all or any part of the laws of this state in effect immediately prior to the effective date of this act and relating to the name of any junior college district or the name of its governing board, or to the number of members of its governing board, or the procedures and times of electing or choosing said members, shall remain in effect under the following conditions. If, at any time before the effective date of this act (but not thereafter), the governing board of any junior college district shall specify by resolution or order the particular provisions of the aforesaid laws applicable to it which it desires to remain in effect, then such particular provisions shall continue to apply to said board and its district; provided that at any time thereafter the governing board may make this section in its entirety applicable to it and its district by appropriate resolution or order, and thereby permanently cancel the effect of the aforesaid particular provisions of other laws. All resolutions and orders permitted by this section shall be filed immediately with the Coordinating Board, Texas College and University System. (Originally Sec. 51.072.)

§ 130.083. Governing Board in Enlarged Junior College District

(a) From and after May 22, 1969, those junior college districts which were on May 22, 1969, operating under Chapter 15, Acts of the 58th Legislature, 1963 (Article 2815o—1b, Vernon's Texas Civil Statutes), and to which one, or more, school districts has been annexed for junior college purposes only, may, by a majority vote of the board of regents of the junior college district, choose to operate and be governed by a board of regents.

(b) Each school district which has been annexed to the junior college district for junior colleges purposes only shall be represented by at least

one member of the board of regents. If the assessed tax rolls exceed \$67,500,000, the school district shall be represented by one member of the board of regents for each \$67,500,000 of assessed value, or a major fraction thereof, on the junior college tax roll, located within the school district. The original junior college district shall be represented on the board of regents by a number of regents arrived at according to the same formula.

(c) The total number of members of the board of regents of the junior college district shall never exceed 14. When the valuation of the enlarged district increases to the point that the number of regents exceeds 14 under the formula described in Subsection (b) of this section then the board of regents of the junior college district shall set a formula, based on proportional tax values, of representation, which will produce a total of 14 members of the board of regents.

(d) The terms of office of the regents authorized by this act shall be six years. Those regents serving as regents on May 22, 1969, shall continue in office for the remainder of their respective terms and then until such time as their successors shall have been elected and qualified, and thereafter in each even-numbered year three regents shall be elected from the area originally forming the junior college district to succeed those regents whose terms are expiring, but if the number of regents becomes more or less than nine, the formula set out in Subsection (e) of this section shall be followed. All new regents added to the board of regents under the provisions of this section shall be appointed by the board of regents which orders the enlargement of the membership of such board, and shall serve until election specified in Subsection (e) of this section. All vacancies on the board of regents shall be filled at once for the unexpired term only by appointments made by the remaining members of such board.

(e) Where additional regent positions are provided under the terms of this section, the board of regents at the time of such authorization shall designate by resolution duly recorded in the minutes of such board the term to be served by each such additional regent, provided that the first regent authorized and appointed shall serve only until the next regular regent election, the second such regent shall serve until the regent election two years after the next regular regent election, and the third regent shall serve until the regent election four years after the next regular regent election, with additional regents which may be authorized to follow the same rotation of terms until all terms of additional regents provided under the terms of this section have been fixed to expire at the next regular regent election, or at the regent election two years after the next regular regent election, or at the regent election four years after the next regular election. Additional regents appointed to such terms and until such times as their successors shall have been elected and qualified, and thereafter the terms of such regents shall be for six years.

(f) Regent elections in all parts of the districts affected by the provisions of this section shall be held at the times and in the manner now provided for public junior colleges by general law. The qualified voters residing in the school district represented shall be entitled to vote in such elections. Each regent to be elected shall be a resident of the school district he is to represent and each regent to represent the original college district shall be a resident of the original college district.

(g) The provisions of this section shall be cumulative of existing laws governing elections of regents in public junior college districts. (V.A.C. S., Art. 2815c—1c.)

§ 130.084. Powers and Duties

The board of trustees of junior college districts shall be governed in the establishment, management and control of the junior college by the general law governing the establishment, management and control of independent school districts insofar as the general law is applicable. (Originally Sec. 51.073.)

§ 130.085. Tuition Exemption

(a) The board of trustees of any public junior college may exempt from payment of tuition all students who are residents of the junior college district and who are enrolled for 12 or more semester credit hours, provided that this action will allow the college to participate in and benefit from funds available as provided by Sections 1-7, Title I, 64 Stat. 1100, as amended, 20 U.S.C. Secs. 236-241—1.¹

(b) This action by the board of trustees does not affect their authority under Section 130.123 of this code, nor does this section in any way supersede that section. This action of the board does not affect the right of the college to a proportionate share of state appropriations under Section 130.003 of this code. (Sec. 6, H.B.No.43, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3355, ch. 1024, Art. 2, § 31, eff. Sept. 1, 1971.

1. 20 U.S.C.A. §§ 236 to 241—1.

A section numbered 51.074 was added to the Code by Acts 1971, 62nd Leg., p. 1749, (H.B.No.43) ch. 511, § 6, eff. Aug. 15, 1971. Said act was repealed by Acts 1971, 62nd

Leg., p. 3363, ch. 1024, art. 2, § 48, eff. Sept. 1, 1971, which by § 31 thereof incorporated the subject matter of repealed section 51.074 in this chapter by adding this section.

§ 130.086. Branch Campuses

(a) The board of trustees of a junior college district may establish and operate branch campuses, centers, or extension facilities, without regard to the geographical bounds of the junior college district, provided that each branch campus, center, or extension facility is approved by the appropriate state educational agency.

(b) The branch campuses, centers, or extension facilities shall be within the role and scope of the junior college as determined by the appropriate state educational agency.

(c) The board of trustees of a junior college district may accept or acquire by purchase or rent land and facilities in the name of the junior college district without regard to the geographical bounds of the junior college district.

(d) Before any course may be offered by a junior college within the district of an operating public junior college it must be established that the public junior college is not capable of or is unable to offer the course. After the need is established and the course is not locally available, then the junior college may offer the course when approval is granted by the appropriate state educational agency.

(e) The board of trustees of a junior college district may enter cooperative agreement with independent, common, or county school districts, state or federal agencies as may be required to perform the services as outlined in this section.

(f) Out-of-district branch campuses, centers, or extension facilities of junior colleges existing prior to September 1, 1971, shall be reviewed by the appropriate state educational agency to determine their feasibility and desirability with respect to the junior college and the population of the geographical area served by the branch campus, center, or extension facility. (H.B.No.1351, 62nd Legis., Reg.Sess., 1971.)

Added by Acts 1971, 62nd Leg., p. 3350, ch. 1024, Art. 2, § 25, eff. Sept. 1, 1971.

A section numbered 51.073 was added to the Code by Acts 1971, 62nd Leg., p. 1764, (H.B.No.1351) ch. 517, § 1, eff. May 31, 1971. Said act was repealed by Acts 1971, 62nd

Leg., p. 3363, ch. 1024, art. 2, § 48, eff. Sept. 1, 1971, which by § 25 thereof incorporated the subject matter of repealed section 51.073 in this chapter by adding this section.

[Sections 130.087 to 130.090 reserved for expansion]

SUBCHAPTER F. REGIONAL COLLEGE DISTRICTS

§ 130.091. Creation and Regulation of Regional College Districts

(a) A regional college district may be established according to the method outlined herein by a county which contains a public junior college district, or by a combination of counties if one of such counties contains a public junior college district, and if the county seat of said county, or if the proposed regional college district is composed of a combination of counties, the respective county seats of such counties, is located at least 90 miles by the then direct regularly traveled road or highway from the county seat of any county containing a state-supported senior college or university, provided that the assessed property valuation of the proposed regional college district, for state and county purposes according to the most recent tax rolls is at least \$52,000,000 and that the scholastic population of such proposed district is not less than 20,000 scholastics according to the most recent scholastic census thereof, as approved by the appropriate state authority, and provided that the population of such county containing a public junior college district is not less than 80,000 according to the last preceding federal census.

(b) Any college created under the authority of this subchapter shall be subject to all provisions of Chapter 61 of this code, and it is further provided that the Coordinating Board, Texas College and University System, shall determine the date upon which any college of any grade or level created hereunder shall begin courses of instruction, such date to be determined only if a feasibility study by the Coordinating Board, Texas College and University System, shall establish a need for any such college. (Originally Sec. 51.081.)

§ 130.092. Petition for Election

Whenever it is proposed to establish a regional college district, a petition signed by not fewer than 100 of the qualified property taxpaying voters of said public junior college district and not fewer than 100 of the qualified property tax paying voters of each of the counties in the territory of such proposed regional college district shall be addressed and presented to the commissioners court of the county or the commissioners courts of the respective counties of such proposed regional college district, praying that an election shall be held upon a stated date in such county or counties which date shall be not less than 30 nor more than 60 days after the date of such petitions for the purpose of determining whether or not such a regional college district shall be formed and such regional college shall be established and whether or not such junior college district shall be merged into said regional college district and whether or not such regional college district shall assume the bonded indebtedness of such junior college district and whether or not such proposed district shall have the power to levy taxes for the payment of such bonded indebtedness and for the maintenance and operation of said regional college and for providing buildings and facilities therefor, all of which questions shall be submitted as parts of one proposition to be printed on the ballots at such election. The signatures for such petition shall be segregated according to the county in which the signers reside and the signatures of the petitioners residing in such public junior col-

lege district shall also be segregated, under appropriate headings indicating the county or district of residence. Such petition may be in two or more counterparts according to the number of counties proposed to be included in such regional college district and respective counterparts of said petition may be filed with and presented to the commissioners courts of said respective counties. The name of such proposed regional college district shall be set forth in said petition and shall include therein the words "regional college district." (Originally Sec. 51.082.)

§ 130.093. Election

It shall be the duty of the said commissioners court or courts of said county or respective counties, promptly after receiving said petition or petitions to order an election to be held throughout their respective county or counties on the date fixed in said petition, and said order shall designate the polling places for said election in said county or counties and appoint officers thereof and provide the supplies therefor and shall set forth the name of such proposed district. The election precincts for said election shall conform as nearly as practicable to the regular election precincts of said county or respective counties, but the election precincts within the boundaries of such public junior college district shall not embrace any territory outside of said public junior college district. Each such commissioners court shall give notice of said election in its county by causing such notice to be published once each week for two alternate weeks before said election in some newspaper having general circulation in said county, the first publication being at least 21 days before said election. If there be no newspaper published having general circulation in such county, the notice of the election to be held in said county shall be published in some newspaper published outside of said county having general circulation in said county and such notice shall also be posted in a public place in each of the commissioner's precincts of said county, one of which shall be at the courthouse door of said county. If a regular session of any such commissioners court is not to be held in time to order such election and give such notice thereof, it shall be the duty of the county judge of such county, upon petition being called to his attention to timely call a special session of such court for this purpose.

The ballot at said election in each county shall provide for voting for or against the proposition: "The college merger, assumption of bonded indebtedness thereof, and the establishment of a regional college and the levying of taxes for the maintenance and operation thereof, and providing buildings and facilities therefor."

Except as otherwise herein provided, such election in each county shall be conducted in accordance with the general election laws of the state. (Originally Sec. 51.083.)

§ 130.094. Canvass of Returns and Declaration of Result; Effect of Vote

Such commissioners court or courts, as the case may be, shall within 10 days after holding such election, make a canvass of the returns and declare the results of the election. If a majority of those voting at said election within the boundaries of such public junior college district, and a majority of those voting at said election in each of such counties, vote for the proposition submitted, the merger of such public junior college district into and with such regional college district, and the assumption by such regional college district of the bonded indebtedness of such public junior college district shall be deemed to have been effected, and a regional college shall be established in such regional college district, conformably to the further provisions hereof, but the failure of the proposi-

tion submitted in any county not containing a public junior college district shall in nowise affect the formation of the proposed regional college district in any other county in which such election is held wherein a majority of the voters voting in such election in such county vote for the proposition submitted in the election order; provided, that a majority of the voters voting in such election in the public junior college district and in the county in which such public junior college district is located, vote for the proposition submitted in the election order. If the regional college district is not created by virtue of such election, another election for such purpose may be held in said proposed regional college district, or portion thereof containing a public junior college district, not less than one year from the date of such previous election, provided it be initiated by the same procedure above prescribed for the first election. (Originally Sec. 51.084.)

§ 130.095. Board of Regents

(a) If the merger herein provided for is effected by said election or any subsequent election held for said purposes, under the further provisions hereof, such regional college district shall thereafter be governed by a board of regents, constituted as herein provided. Said board of regents shall be made up in part of one regent at large, from each of the counties approving participation in the regional college district. In addition, there shall be one regent from each county for each 15,000 scholastics of the respective counties or a major fraction thereof, as determined by the proper state authority and provided further in addition there shall be one regent from each county for each \$50 million of assessed property valuation, or major fraction thereof, as determined by the county tax assessor-collector of each approving county of said district. The first regents, constituting said board of regents, from each of such counties, shall be appointed by the commissioners court of said respective counties except as modified herein and shall be made within 30 days after the election at which said merger shall have been effected; however, in the event that only the county containing the junior college votes favorably for the proposed regional senior college district, the board of regents of the junior college district may decide:

(1) whether to activate the regional college district; or

(2) whether to continue the present junior college district and in the event that the decision is to activate the regional college district, the present junior college board will continue as the board of regents for the regional college and shall operate under all present and future junior college statutes as pertaining to junior colleges; that is to say, that in the event that more than one county votes to participate in the regional college, the board of regents shall be constituted as follows:

(A) one regent at large from each approving county;

(B) one regent from each approving county for each 15,000 scholastics or major fraction thereof; and

(C) one regent from each approving county for each \$50 million assessed property evaluation or major fraction thereof; and further, the first regents, constituting said board of regents, shall be appointed as follows:

(i) from the original junior college district, the board of regents of the junior college district shall appoint the members of the board from that county;

(ii) from each of several counties, the commissioners court shall appoint the members of the board of regents from that county. All appointments shall be made within 30 days from the date of the election. Each and every regent shall take the oath of office as prescribed for junior college board members.

(b) The board of regents thus appointed shall first meet within 21 days of the time the members are appointed at a time and place appointed by the then president of the board of regents of the junior college district and shall proceed to organize by electing from its members a president, a vice president, a secretary and an assistant secretary from members of the board. At the first meeting of said board of regents, the regents from each county shall draw lots for terms of office. The appointed regents from each county shall elect one of its members to draw for terms and all regents from the county drawing the lowest number shall serve a term of two years; all regents from the county drawing the second lowest number shall serve four years; all regents from the county drawing the third lowest number shall serve six years. In case there are more than three counties, there shall be two lowest lots; then two next lowest lots, etc.; that is to say that no board member shall serve longer than six years and all regents from any one county shall have the same term. If only the county in which the junior college is located forms the senior college district, the terms of office shall remain the same as under the statute under which the junior college district presently operates. The board of regents shall cause a permanent record to be made and preserved of the term of office of each appointed regent determined by lot as herein provided. At the expiration of the terms of office of each regent, a successor shall be elected at elections held within the respective counties at large, at the same time and in the same manner as is now presently prescribed for the existing junior college district, provided that such elections shall be called and conducted in the manner presently prescribed for junior colleges. Costs of such regent elections shall be paid for from college funds. The returns of such board elections shall be canvassed and certified by the board of regents as is now presently prescribed for junior colleges. All provisions hereof with reference to elections of regents in counties originally constituting said regional college district shall extend and apply to election of regents in entire counties that may hereafter be annexed to said college district under the further provisions hereof. (Originally Sec. 51.085.)

§ 130.096. Property, Funds and Resources of Junior College District; Contracts

Upon the merger of said public junior college district into and with the regional college district, all property, funds, and resources of the public junior college district are authorized and shall pass to and belong to said regional college district, and all contracts of such public junior college district shall extend to and be binding upon such regional college district; provided that the management and control of the property and affairs of the public junior college district shall continue in the board of trustees of such public junior college district until the appointment and organization of the board of regents of the regional college district, at which time the board of trustees of said public junior college district shall turn over all records, property, and affairs of the said public junior college district to the board of regents of said regional college district and shall cease to exist as a junior college board of trustees. (Originally Sec. 51.086.)

§ 130.097. Assessed Tax Values and Scholastic Census; Number of Regents; Conduct of Election; Vacancies; Organization of Board; Meetings; Office

The amount of assessed tax values of said counties, for the purposes herein provided, shall be determined in the first instance, and from time to time, according to the most recent figures available, by the county tax assessor-collector of each approving county in the district. Such assessed tax values for ascertaining the number of regents at large to

which said respective counties are entitled hereunder, to be appointed under the provisions hereof, shall first be made by the county tax assessor-collector of said county or respective counties. Such determination shall thereafter be made and certified before each biennial election of regents, by the board of regents. The number of scholastics of each of said counties, for the purposes herein provided, shall be determined in the first instance and from time to time, according to the most recent scholastic census of each of said respective counties, as approved by the state agency then authorized to approve such census. Such scholastic census of said respective counties for ascertaining the number of regents at large to which said respective counties are entitled hereunder, to be appointed under the provisions hereof, shall first be made by the superintendent of schools of the prospective independent school districts located in the respective counties. Such determination shall thereafter be made and certified before each biennial election of regents at large, by the board of regents. All elections herein provided for shall be conducted according to the general election laws of the State of Texas, except as herein otherwise provided. All vacancies occurring in the board of regents shall be filled by appointment by the board of regents. After each election of regents the board of regents shall organize as herein provided. The board of regents shall select and maintain a regular office for their meetings and the transaction of their business, at such place as they determine, and shall hold regular meetings at such times as may be provided in the rules or bylaws of said board of regents, and may hold special meetings at the call of the president of the board. (Originally Sec. 51.087.)

§ 130.098. Rules of Procedure; Quorum; Seal; Suits

(a) The board of regents may adopt its own rules of procedure, but a majority of said regents shall constitute a quorum, and a majority of those in attendance may transact any business.

(b) The board of regents of such regional college district shall adopt an official seal for the district, and said district may sue and be sued in its name. In any suit against said district, process may be served on the president or vice president. (Originally Sec. 51.088.)

§ 130.099. Compensation and Expenses of Board

The board of regents of such regional college district may authorize the payment of a per diem of not to exceed \$10 to each member of such board of regents in attendance at a regular or special meeting of such board of regents. In addition, members of said board of regents may be allowed such actual expenses as may be incurred by them in performing their duties as may be authorized and allowed by the board of regents, provided, that per diem payments may not be made in addition to payments for actual expenses. (Originally Sec. 51.089.)

§ 130.100. Powers of Board

The said board of regents shall have all the power and duties in respect of the business and affairs of the regional college district as provided by law in respect of the board of trustees of junior college districts, and such other powers as herein provided and as may be hereafter provided by law. (Originally Sec. 51.090.)

§ 130.101. Annexation of Contiguous County or Independent Districts

(a) The entire area of any county located in Texas, the county seat of which is located at least 90 miles by the then direct regularly traveled road or highway from the county seat of any county containing a state-supported senior college or university, or the area of any one or more in-

dependent school districts of a county in Texas who meets the requirements above, may be annexed to, and assume its pro rata part of the bonded indebtedness of said regional college district, in the manner herein provided. A petition of 100 of the property taxpaying voters of any such county or of any such independent school district, proposing that the entire area of such county, or of such independent school district, as the case may be, be annexed to, and that such countywide area or such district area assume its pro rata part of the bonded indebtedness of said regional college district, may be submitted to the board of regents of such regional college district. If the said board of regents determines that it would be to the interest of said regional college district and of the area proposed to be annexed, that such annexation be accomplished, said board of regents shall adopt a resolution so finding, and said petition and certified copy of said resolution shall be submitted to the commissioners court of said county, and it shall be the duty of said commissioners court, within 15 days after the presentation of such petition any copy of such resolution, to order an election to be held in said county at large, or in such school district, or districts, as the case may be, for the purpose of determining if the area of said county, or the area of such school district, or districts, shall be annexed to said regional college district, and assume its pro rata part of the bonded indebtedness of said regional college district; said election to be held not earlier than 60 days nor later than 90 days after passage of such order. The ballots at said election shall be printed to provide for voting for or against the proposition: "Annexation to be the regional college district and assumption of pro rata part of its bonded indebtedness." The name of such district shall be inserted in the proposition.

(b) Said commissioners court shall designate the polling place of said election and appoint the officers thereof, and furnish the supplies therefor. Said election shall be conducted in accordance with the general election laws of Texas, insofar as applicable. Returns of said election shall be made to said commissioners court and canvassed by said court.

(c) If the majority of the votes cast at such election are in favor of said proposition, such fact shall be certified by the commissioners court to the board of regents of said regional college district, and the entire area of said county, or of said school district, or districts, as the case may be, shall be deemed to have been annexed to and shall be a part of said regional college district and shall be subject to taxation for the payment of the existing bonded indebtedness and the maintenance of said regional college district the same as other property in the area of said regional college district.

(d) In the event an entire county is so annexed, the commissioners court of such county shall forthwith appoint a regent or regents for said college from the county in accordance with the number of regents allowed as hereinabove provided. All such regents shall, before entering upon the duties of their offices, take the oath as herein prescribed for regents. Such appointment shall be certified by the clerk of the commissioners court to the board of regents of said college district. At the first meeting of the board of regents after the appointment and qualification of regents from such annexed county, the regents shall determine by lot in the manner provided by the board of regents, their term of office. Thereafter, successors to the regents from said annexed county shall be elected in the manner provided for other counties in said district.

(e) In the event the area of one or more independent school districts of a county, instead of the entire county, is annexed to said regional college district, said annexed territory shall be entitled to the number of regents as they may qualify for in terms of scholastics and tax values. Immediately after such annexation the commissioners court of the county in which such area is situated shall appoint from said area, the number of regents to which such area is entitled. This regent or regents as the case

may be, so appointed, shall hold office until the expiration of the term of office of the regents of said county of which they are a part. At the expiration of the term of each regent from such annexed territory his successor shall be elected at an election to be held in the annexed area, to be called by the board of regents, which shall designate the polling place or places, the officers of the election, provide the supplies therefor and pay the expenses thereof. (Originally Sec. 51.091.)

§ 130.102. Taxes

The tax assessors and collectors of the county or respective counties containing territory embraced within the boundaries of such regional college district shall assess and collect the taxes of said college district on the taxable property in the territory of said district located in said county or respective counties on levies made and rates fixed by the board of regents of said district. The assessed valuations of said property for state and county taxes shall be used as the valuations for said college district taxes. Such tax collectors shall collect the college district taxes at the same time that he collects the state and county taxes. All taxes collected for such regional college district shall be accounted for to and paid over to the treasurer of said college district by such tax collector, and he shall receive the same compensation for assessing and collecting such taxes as provided by law for like services rendered for junior college districts. (Originally Sec. 51.092.)

§ 130.103. President of College

The board of regents shall choose the president of the regional college, fix his term of office, designate his salary, and define his duties. The president shall be the executive officer of the board of regents and shall work under its direction. He shall recommend the plan of organization of the college and shall recommend the appointment of all employees. (Originally Sec. 51.093.)

§ 130.104. Establishment of College; Divisions; Support

(a) The board of regents shall proceed as soon as practicable to establish a regional college in said regional college district, which shall consist of three divisions, as follows:

(1) a junior college division, which shall operate under all laws applicable to public junior colleges in Texas;

(2) an adult education division for adults regardless of age or former education for:

(A) basic education to emphasize citizenship, English, and training in elemental mathematics and science;

(B) terminal, vocational, and technological education and training in their generally accepted sense;

(C) work and study groups based on needs and interests as displayed by the residents of the area served by the regional college. The adult education division shall emphasize continuation of education of adults with emphasis upon democracy and citizenship;

(3) a senior college division which shall be guided by educational practices and principles applicable to upper division work in first-class colleges and universities; provided that any bachelor's degree shall be based on four years of college work and that any higher degree with appropriate courses may be offered when in the judgment of the board of regents, the educational welfare of the people served by the college demands and justifies such work and such courses. All of which shall be organized and blended into an educational program by the president of the college and his staff.

(b) It is understood and provided that no funds shall ever be appropriated from the treasury of the State of Texas or public money of this state

for the support or partial support by the Legislature of Texas of any adult and senior college divisions of such regional colleges created under the provisions of this act, provided, however, that nothing herein contained shall in any manner prevent or interfere with the provisions of law now or hereafter existing authorizing state aid to the junior college divisions of such regional college districts in the same manner and to the same extent as that granted to junior college districts. (Originally Sec. 51.094.)

§ 130.105. Buildings, Property and Resources of Junior College District; Fees and Tuition; Tax Levy; Bonds

(a) All buildings, property, and other educational resources of the public junior college district at the time of said merger shall be available for all divisions of the regional college in accordance with the laws of Texas governing public junior college districts and as determined by the board of regents of the regional college district. The board of regents shall have the power to fix such fees and tuition rates as shall be deemed to be necessary. In addition, the board of regents shall have the power to levy taxes and make such distribution of such taxes as it may deem necessary for the adequate support of said college; provided that the total annual tax levy for all regional college purposes shall not exceed a rate of 50 cents on each \$100 of assessed valuation of taxable property located in such regional college district. All powers relating to the issuance of bonds, the construction or acquisition of buildings and facilities, taxation, and otherwise, vested by law in public junior college districts shall be applicable to said regional college district, subject, however, to the limitation of 50 cents on each \$100 of valuation above mentioned.

(b) All bonds and notes issued pursuant to the authority herein granted shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto. (Originally Sec. 51.095.)

§ 130.106. Donations, Gifts, and Endowments

Said board of regents is authorized, in behalf of said regional college, to accept donations, gifts, and endowments for the college to be held in trust and administered by the board of regents for such purpose and under writing by the donor, not inconsistent with the proper management and objects of the college. (Originally Sec. 51.096.)

§ 130.107. Power of Eminent Domain

(a) The power of eminent domain is hereby conferred on regional college districts, for the purpose of acquiring buildings, lands for building or campus sites, or other property determined by the boards of regents of such districts to be needed to carry out the authorized functions of such districts.

(b) Said power of eminent domain shall be exercised in the manner provided by Title 52 of the Revised Civil Statutes of Texas, 1925.¹ (Originally Sec. 51.097.)

1. Vernon's Ann.Civ.St. art. 3264 et seq.

§ 130.108. Delinquent Taxes after Transfer of Assets

Any regional college district which has conveyed all, or substantially all, of its property and assets to a state-supported senior college or university located in such regional college district and which regional college district has no outstanding bonded indebtedness is hereby abolished and shall cease to exist and function; provided, however, that all delinquent and uncollected taxes in said regional college district shall not hereby be discharged, but shall be and remain fully due, payable and collectible. The tax assessor and collector of the county in which said regional college district is located shall cause all delinquent and uncollected taxes of said regional college district to be collected in accordance with the general laws applicable to regional college districts. All of said taxes, as collected, shall be turned over to any such state-supported senior college or university. All taxes turned over to any such state-supported senior college or university in accordance with this act may be used by it for any lawful purpose. (Originally Sec. 51.098.)

§ 130.109. Transfer of Assets of Certain Regional College Districts

All regional college districts which have been converted to fully state-supported institutions of higher learning are hereby authorized to transfer all assets of such districts, real, personal, tangible, or intangible to the governing boards of such institutions provided that each such governing board shall continue the payment of all notes and bonds payable from revenues theretofore issued by such districts and each county in which any such regional college district is located continues to levy and collect taxes in support of all tax obligations theretofore authorized and issued by such district. (Originally Sec. 51.099.)

[Sections 130.110 to 130.120 reserved for expansion]

SUBCHAPTER G. FISCAL PROVISIONS**§ 130.121. Tax Assessment, Equalization, and Collection**

(a) The governing board of each junior college district, and each regional college district, for and on behalf of its junior college division, annually shall cause the taxable property in its district to be rendered and assessed for ad valorem taxation, and the value of such taxable property to be equalized, and the ad valorem taxes in the district to be collected, in accordance with any one of the methods set forth in this section, and any method adopted shall remain in effect until changed by the board.

(b) The laws of this state applicable to general law cities and towns may be adopted and shall be used to the extent pertinent and practicable.

(c) The laws of this state applicable to counties may be adopted and shall be used to the extent pertinent and practicable, provided that the board shall have the authority to act as its own board of equalization, or to appoint three resident, qualified voters of the district who own taxable property therein to act as the board of equalization of the district, and in either case the board of equalization shall qualify and perform the duties prescribed by law for county commissioners courts acting as boards of equalization.

(d) Each governing board shall be authorized to have the taxable property in its district assessed, its values equalized, and/or its taxes collected, in whole or in part, by the tax assessors, board of equalization, and/or tax collectors, respectively, of any county, city, taxing district, or other governmental subdivision in which all or any part of the junior college district is located; and such property may be assessed and the values thereof equalized on the same basis or a different basis than that used by any such governmental subdivision. Such property shall be as-

sessed, the values thereof equalized, and such taxes collected, in the manner and for such compensation as shall be agreed upon between the appropriate parties, and the functions thus assumed by the officials of any such governmental subdivision shall be additional duties pertaining to their offices, respectively. The ad valorem tax law applicable to each such governmental subdivision shall apply to its officials in carrying out such functions for the junior college district.

(e) It is specifically provided, however, that under any method used all taxable property within a district shall be assessed on the same basis and the values thereof shall be equalized by only one board of equalization, in an equal and uniform manner, as required by the Texas Constitution. If a governing board desires that taxable property shall be assessed and taxes collected by the tax assessors and/or collectors of more than one governmental subdivision, the governing board of the district shall either act as its own board of equalization, or appoint three resident, qualified voters of the district who own taxable property therein to act as the board of equalization, and in either case the board of equalization shall qualify and perform the duties prescribed by law for county commissioners courts acting as boards of equalization.

(f) Any other method or procedure authorized or permitted by any other statute of the State of Texas may be adopted, in whole or in part, to the extent pertinent and practicable. (Originally Sec. 51.101.)

§ 130.122. Tax Bonds and Maintenance Tax

(a) The governing board of each junior college district, and each regional college district for and on behalf of its junior college division, shall be authorized to issue negotiable coupon bonds for the construction and equipment of school buildings and the purchase of the necessary sites therefor, and levy and pledge annual ad valorem taxes sufficient to pay the principal of and interest on said bonds as the same come due, and to levy annual ad valorem taxes for the further maintenance of its public junior college or junior colleges; provided that the annual bond tax shall never exceed 50 cents on the \$100 valuation of taxable property in the district, and the annual bond tax, if any, together with the annual maintenance tax shall never exceed the aggregate of \$1 on the \$100 valuation of taxable property in the district. Such bonds may be issued in various series or issues, and shall mature serially or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of the board. Said bonds, and the interest coupons appertaining thereto, shall be negotiable instruments, and they may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be signed and executed, as provided by the board in the resolution or order authorizing the issuance of said bonds. All bonds shall be sold to the highest bidder for not less than their par value and accrued interest.

(b) No such bonds shall be issued and none of the aforesaid taxes shall be levied unless authorized by a majority of the electors voting at an election held for such purpose in accordance with law, at the expense of the district. Each such election shall be called by resolution or order of the board, which shall set forth the date of the election, the proposition or propositions to be submitted and voted on, the polling place or places, and any other matters deemed necessary or advisable by the board. Notice of said election shall be given by publishing a substantial copy of the election resolution or order one time, at least 10 days prior to the date set for the election, in a newspaper of general circulation in the district. The board shall canvass the returns and declare the results of such election.

(c) The governing board of each junior college district, and each regional college district, shall be authorized to refund or refinance all or

any part of any of its outstanding bonds and matured but unpaid interest coupons payable from ad valorem taxes by the issuance of negotiable coupon refunding bonds payable from ad valorem taxes. Said refunding bonds shall mature serially or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of the board. Said refunding bonds may be issued without an election in connection therewith, provided that in no event shall any series or issue of refunding bonds be issued in a principal amount greater than the face or par value of the obligations being refunded thereby, and provided that if a maximum interest rate was voted for the bonds being refunded, the refunding bonds shall not bear interest at a rate higher than such voted maximum rate. Said refunding bonds, and the interest coupons appurtenant thereto, shall be negotiable instruments and they may be made redeemable prior to maturity, and may be issued in such form, denomination, and manner, and under such terms, conditions, and details, and shall be signed and executed, as provided by the board in the resolution or order authorizing the issuance of said refunding bonds. The refunding bonds shall be issued and delivered in lieu of, and upon surrender to the Comptroller of Public Accounts of the State of Texas and cancellation of, the obligations being refunded thereby, and the comptroller of public accounts shall register the refunding bonds and deliver the same in accordance with the provisions of the resolution or order authorizing the refunding bonds. Such refunding may be accomplished in one or in several installment deliveries. Said refunding bonds also may be issued and delivered in accordance with the provisions of and procedures authorized by any other applicable law.

(d) All bonds issued pursuant to this section, and the appropriate proceedings authorizing their issuance, shall be submitted to the attorney general of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

(e) All bonds issued pursuant to this section shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, small business investment corporations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

(f) Each junior college district, and each regional college district (with reference to the operation and maintenance of its junior college division) heretofore or hereafter created pursuant to the laws of this state, is hereby declared to be, and constituted as, a school district within the meaning of Article VII, Section 3, of the Texas Constitution.

(g) All tax bonds voted in any district in accordance with law but unissued at the effective date of this code may be issued in the manner provided in this section, without an additional election; and all maintenance taxes heretofore voted in any district in accordance with law may be lev-

ied and collected in the manner provided in this act, without an additional election. (Originally Sec. 51.102.)

§ 130.123. Revenue Bonds

(a) The governing board (hereinafter called the "board") of each junior college district and each regional college district shall be authorized and have the power to acquire, purchase, construct, improve, enlarge, equip, operate, and/or maintain any property, buildings, structures, activities, operations, or facilities, of any nature, for and on behalf of its institution or institutions.

(b) For the purpose of carrying out any one or more of the aforesaid powers each board shall be authorized to issue its revenue bonds to be payable from and secured by liens on and pledges of all or any part of any of the revenues from any rentals, rates, charges, fees, or other resources of such board, in the manner hereinafter provided. Said bonds may be issued to mature serially or otherwise not more than 50 years from their date. In the authorization of any such bonds, each board may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other types of bonds, under such terms or conditions as may be set forth in the resolution or order authorizing the issuance of said bonds, all within the discretion of the board. Said bonds, and any interest coupons appertaining thereto, shall be negotiable instruments (provided that such bonds may be issued registrable as to principal alone or as to both principal and interest), and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rate or rates, as shall be determined and provided by the board in the resolution or order, authorizing the issuance of said bonds. If so permitted in the bond resolution, and required part of the proceeds from the sale of the bonds may be used for paying interest thereon during the period of the construction of any facilities to be provided through the issuance of said bonds, and for the payment of operation and maintenance expenses of said facilities to the extent, and for the period of time, specified in said bond resolution, and also for the creation of reserves for the payment of the principal of and interest on the bonds; and such moneys be invested, until needed, to the extent, and in the manner provided, in said bond resolution or order.

(c) Each board shall be authorized to fix and collect rentals, rates, charges, and/or fees from students and others for the occupancy, use, and/or availability of all or any of its property, buildings, structures, activities, operations, or facilities, of any nature, in such amounts and in such manner as may be determined by such board.

(d) Each board shall be authorized to pledge all or any part of any of its revenues from any of the aforesaid rentals, rates, charges, and/or fees to the payment of any bonds issued hereunder, including the payment of principal, interest, and any other amounts required or permitted in connection with said bonds. When any of the revenues from any such rentals, rates, charges, and/or fees are pledged to the payment of bonds, they shall be fixed and collected in such amounts as will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with said bonds, and, to the extent required by the resolution or order authorizing the issuance of said bonds, to provide for the payment of operation, maintenance, and other expenses. Each board shall be authorized to establish and enforce such parietal rules for students and others, and to enter into such agreements regarding occupancy, use, and availability, and the amounts and collection of pledged revenues, fees, or other resources as will assure making all said required payments. Fees for the use or availability of all or any property, buildings, structures, activities,

operations, or facilities, of any nature, may be pledged to the payment of said bonds, and shall be fixed and collected from all or any designated part of the students enrolled in the institution or institutions, in such amounts and in such manner as shall be determined and provided by the board in the resolution or order authorizing the issuance of the bonds, and said fees may be collected in the full amounts required or permitted herein, without regard to actual use or availability, commencing at any time designated by the board. Said fees may be fixed and collected for the use or availability of any specifically described property, buildings, structures, activities, operations, or facilities, of any nature; or said fees may be fixed and collected as general fees for the general use or availability of the institution or institutions. Such specific and/or general fees may be fixed and collected and pledged to the payment of any issue or series of bonds issued hereunder, in the full amounts required or permitted herein, in addition to, and regardless of the existence of, any other specific or general fees at the institution or institutions; provided that each board may restrict its power to pledge such additional specific or general fees in any manner that may be provided in the resolution or order authorizing the issuance of any bonds issued hereunder, and provided that no such additional specific fees shall be pledged if prohibited by any resolution or order which authorized the issuance of any then outstanding bonds issued pursuant to any Texas statute.

(e) In addition to the revenues, fees, and other resources authorized to be pledged to the payment of bonds issued hereunder, each board further shall be authorized to pledge irrevocably to such payment, out of the tuition charges required or permitted by law to be imposed at its institution or institutions, an amount not exceeding \$15 from each enrolled student for each regular semester and \$7.50 from each enrolled student for each summer term, and each board also shall be authorized to pledge to such payment all or any part of any grant, donation, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

(f) Any revenue bonds issued by any such board under this act, and any revenue bonds or notes issued by any such board under any other Texas statute and payable from tuition fees and charges and/or any part of the use fees from or revenues of any property, buildings, structures, activities, operations, or facilities at the institution or institutions, may be refunded or otherwise refinanced by such governing board, and in such case all pertinent and appropriate provisions of this section shall be fully applicable to such refunding bonds. In refunding or otherwise refinancing any such bonds or notes the governing board may, in the same authorizing proceedings, refund or refinance bonds issued pursuant to this section and bonds or notes issued pursuant to any other such Texas statute and combine all said refunding bonds and any other additional new bonds to be issued pursuant to this section into one or more issues or series of bonds, and may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other type of bonds. All refunding bonds shall be issued and delivered under such terms and conditions as may be set forth in the authorizing proceedings.

(g) All bonds permitted to be issued under this section, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

(h) All bonds issued under this section shall be legal and authorized investments for all banks, trust companies, building and loan associa-

tions, savings and loan associations, small business investment corporations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

(i) All revenue bonds heretofore approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas which were issued, sold, and delivered by any board, and which are payable from or secured by a pledge of any revenues, use fees, tuition, or other resources of such board, are hereby validated in all respects, together with all proceedings authorizing the issuance thereof, and said bonds and proceedings shall be valid as though they had been duly and legally issued and authorized originally. (Originally Sec. 51.103.)

[Sections 130.124 to 130.130 reserved for expansion]

SUBCHAPTER H. TRANSFER OF ASSETS ON DISSOLUTION OF DISTRICTS

§ 130.131. Dissolution and Transfer of Property Upon Creation of Senior College

(a) Whenever the legislature shall create within the boundary of any union junior college district a state-supported senior college of the first rank offering at least four years of college work, and whenever such union junior college district has been dissolved in the manner provided for in Sections 19.361-19.364 of this code, which said method of dissolution of such district is hereby authorized, the trustees of such union junior college district shall transfer the corporeal properties and facilities of such union junior college district to such state-supported senior college, and such trustees, after such dissolution and transfer of properties of such district, shall not further maintain a junior college and shall function only for the purpose of carrying out the provisions of this section and shall have no authority to create any additional indebtedness against such district, and when the bonded indebtedness of such district has been fully paid, such union junior college district shall cease to exist; provided that in the order calling such election and in the notice thereof, the authorities calling such election shall designate the date when such district shall be dissolved and such transfer shall be made, which date shall be within two years from the date of the election, and on or prior to said date.

(b) When any union junior college district has been dissolved and its properties transferred as provided in Subsection (a) of this section, or in any other lawful manner, having at the time of such dissolution outstanding bonds or other indebtedness enforceable either at law or in equity, then the county commissioners court, for the purpose of paying such bonds, or other indebtedness, shall have power and be authorized to annually levy and collect ad valorem taxes sufficient only to pay the interest and create a sinking fund to retire the bonded indebtedness of such district, and the expense of collecting such taxes and paying such bonded

indebtedness, and for no other purpose; provided such tax shall not exceed the rate voted by such district for junior college purposes; said county commissioners court shall have power to bring and defend litigation in the name of said union junior college district. (Originally Sec. 51.201.)

§ 130.132. Abolition of Junior College Districts

(a) The term "applicable district," as used in this section, shall mean any junior college district which has conveyed all, or substantially all, of its property and assets to a state-supported senior college or university located in such junior college district, and which junior college district has no outstanding bonded indebtedness.

(b) All applicable districts and their governing boards are hereby abolished and shall cease to exist and function; provided, however, that all delinquent and uncollected taxes in said applicable districts shall not hereby be discharged, but shall be and remain fully due, payable and collectible. The persons formerly acting as the governing board and officers of each applicable district shall turn over all remaining property and assets of said applicable district, including all tax collections on hand, directly to the state-supported senior college or university located therein. The governing board of the independent school district in which any such state-supported senior college or university is located shall, for and on behalf of any such applicable district, cause, through its tax collector and other officers, all delinquent and uncollected taxes of any such applicable district to be collected in accordance with the general laws applicable to independent school districts. All of said taxes, as collected, shall be turned over to any such state-supported senior college or university. All taxes turned over to any such state-supported senior college or university in accordance with this section may be used by it for any lawful purpose. (Originally Sec. 51.202.)

§ 130.133. Transfer of Properties of County Junior College Districts after Creation of Senior College

(a) Whenever the legislature has created or shall create within the boundaries of any county junior college district a state-supported senior college offering at least four years college work upon the condition that the board of trustees of said county junior college district shall convey all of the assets, real, personal, tangible, and intangible held in its name as of the date fixed for the establishment of said senior college and containing the other provision that said properties shall be conveyed to the governing body of the senior college free and clear of any indebtedness or indebtednesses, encumbrance or encumbrances of any kind or character and of whatsoever nature, the board of trustees of said county junior college district is hereby fully authorized and empowered to convey to the governing body of the senior college all of such assets, real, personal, tangible, and intangible held by it on the date fixed for such conveyance in the act creating such senior college, except moneys on hand for the payment of outstanding obligations of the district.

(b) From and after the conveyance of the properties of said county junior college district to the governing body of said senior college, the county junior college district shall not further maintain a junior college and shall function only for the purpose of carrying out the provisions of this section.

(c) Where such county junior college district had or has outstanding tax obligations in the nature of bonds or other indebtedness, the board of trustees of said county junior college district shall continue to make the necessary tax levies annually for the purpose of paying necessary administrative expenses of the board of trustees and paying off and discharg-

ing such bonded or other indebtedness, both principal and interest, until all of the same has been fully paid off and discharged.

(d) Where said county junior college district has outstanding any bonds payable from the revenues from any building or buildings which revenue bonds constitute an encumbrance upon the income of such building or buildings, the board of trustees of the county junior college district is hereby authorized to issue bonds of said county junior college district payable from ad valorem taxes of said district and to sell such tax-supported bonds and pay off such revenue bonds or to exchange such tax-supported bonds for said revenue bonds. No such tax-supported bonds shall be issued, however, until authorized at an election held for that purpose and at which election a majority voting thereon shall have voted in favor of the issuance of said bonds.

(e) The board of trustees of the county junior college district is hereby authorized to perform all acts necessary toward the final discharge of all the indebtedness of said county junior college district and to perform all necessary administrative acts in connection therewith. Said board of trustees is specifically authorized to continue to levy and collect sufficient taxes annually within the limits prescribed by law and authorized by the required election for the purpose of discharging the principal and interest on all outstanding bonded and other indebtedness, including the repayment of any temporary loans which said board may find necessary to obtain in order to pay all current operating expenses of the junior college up to the date of the conveyance of the properties until all such obligations have been fully discharged, and such temporary loans are hereby authorized, and such temporary loans heretofore obtained are hereby ratified and validated. (Originally Sec. 51.203.)

[Chapters 131 to 134 reserved for expansion]

CHAPTER 135. TEXAS STATE TECHNICAL INSTITUTE

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 135.01. Purpose of Institute.
- 135.02. Location.
- 135.03. Role and Scope of Institute.
- 135.04. Approval of Programs.

[Sections 135.05 to 135.20 reserved for expansion]

**SUBCHAPTER B. BOARD OF REGENTS;
ADMINISTRATIVE PROVISIONS**

- 135.21. Board of Regents.
- 135.22. Appointment of Board.
- 135.23. Terms of Office.
- 135.24. Organization; Bylaws.
- 135.25. Meetings.
- 135.26. Compensation.

[Sections 135.27 to 135.50 reserved for expansion]

**SUBCHAPTER C. BOARD OF REGENTS;
POWERS AND DUTIES**

- 135.51. Certificates and Diplomas.
- 135.52. Fees and Tuition.
- 135.53. Nonresident Fee Exemptions.

Section

- 135.54. Contracts.
- 135.55. Suits; Venue.
- 135.56. Disposition of Properties; Bonds and Notes; Pledge of Revenue.
- 135.57. Insurance.
- 135.58. Workmen's Compensation Insurance.
- 135.59. Contracts with Baylor University.

SUBCHAPTER A. GENERAL PROVISIONS**Section 135.01. Purpose of Institute**

Texas State Technical Institute is a coeducational institution offering courses of study in vocational and vocational-technical education for which there is demand within the State of Texas. (V.A.C.S. Art. 2615f—1, Sec. 2 (part).)

§ 135.02. Location

(a) The Texas State Technical Institute shall be located on only four campuses in McLennan, Cameron, Potter and Nolan counties.

(b) The main campus of the institute shall be located at Waco.

(c) The board may accept or acquire by purchase in the name of the State of Texas land and facilities in Cameron County, Potter County and Nolan County, subject to the approval of the governor. (H.B.No.672, 61st Legis., Reg.Sess., 1971.)

(d) Except as otherwise provided by this chapter, all other campus locations to be operated by the institute system require legislative approval. (V.A.C.S. Art. 2615f—1a, Sec. 9.)

Subsecs. (a), (c) amended by Acts 1971, 62nd Leg., p. 3341, ch. 1024, Art. 2, § 10, eff. Sept. 1, 1971.

§ 135.03. Role and Scope of Institute

(a) The institute shall provide occupationally oriented programs in highly technical and vocational areas, including field or laboratory work and remedial or related academic and technical instruction. Particular emphasis shall be placed on industrial and technological manpower needs of the state. Technical and vocational programs shall be subject to the approval of the State Board of Vocational Education. Related academic instruction is subject to the approval of the Coordinating Board, Texas College and University System.

(b) The institute shall provide training programs for technical teachers, counselors, and supervisors which shall be subject to prior and continuing approval of the State Board of Vocational Education.

(c) The institute shall conduct manpower development and utilization research programs for identification of training and retraining needs and projected needs and for curriculum development, either individually or in cooperation with other public and private institutions. (V.A.C.S. Art. 2615f—1a, Sec. 7 (part).)

§ 135.04. Approval of Programs

(a) Educational programs wholly or partially financed from state funds are subject to the prior approval of the State Board of Vocational Education and the Coordinating Board, Texas College and University System. (V.A.C.S. Art. 2615f—1, Sec. 2 (part).)

(b) Before any program may be offered by the institute within the district of a public junior college that is operating a vocational and techni-

cal program, it must be established that the public junior college is not capable of offering or is unable to offer the program. After it is established that a need for the program exists and that the program is not locally available, the institute may offer the program, provided approval is secured as required by this chapter. Approval set forth in this subsection does not apply to McLennan, Cameron, and Potter counties. (V.A.C.S. Art. 2615f—1a, Sec. 7(a) (part).)

(c) Where a local government located in a county or a portion of a county that is not operating a public junior college district requests that the institute offer a program, the institute may offer the program provided approval is secured from the State Board of Vocational Education. (V.A.C.S. Art. 2615f—1a, Sec. 7 (part).)

[Sections 135.05 to 135.20 reserved for expansion]

SUBCHAPTER B. BOARD OF REGENTS; ADMINISTRATIVE PROVISIONS

§ 135.21. Board of Regents

The organization and control of the institute is vested in a board of nine regents. (V.A.C.S. Art. 2615f—1a, Sec. 2(a) (part).)

§ 135.22. Appointment of Board

The governor shall appoint members of the board with the advice and consent of the senate. In appointing members of the board the governor shall include persons representing agriculture, business, industry, and labor. Each member of the board shall be a citizen of Texas and shall take the constitutional oath of office. (V.A.C.S. Art. 2615f—1a, Sec. 2(a) (part), (b), and (c).)

§ 135.23. Terms of Office

The term of office of each regent is six years. In making the first appointments the governor shall appoint three members for six years, three members for four years, and three members for two years. Any vacancy that occurs on the board is filled for the unexpired term by appointment of the governor. (V.A.C.S. Art. 2615f—1a, Sec. 2(a) (part).)

§ 135.24. Organization; Bylaws

The board shall elect one of the members chairman; elect other officers as it deems necessary; and enact bylaws, rules, and regulations as it deems necessary for the successful management and operation of the institute. (V.A.C.S. Art. 2615f—1a, Sec. 2(d).)

§ 135.25. Meetings

The board shall meet as prescribed by its bylaws, but not less than six times annually. (V.A.C.S. Art. 2615f—1a, Sec. 2(e).)

§ 135.26. Compensation

Members of the board may not receive salary or compensation for their services, but they may receive reimbursement for their actual expenses incurred in attending to the work of the board, subject to the approval of the chairman. (V.A.C.S. Art. 2615f—1a, Sec. 4.)

[Sections 135.27 to 135.50 reserved for expansion]

SUBCHAPTER C. BOARD OF REGENTS; POWERS AND DUTIES**§ 135.51. Certificates and Diplomas**

The board shall prescribe and award certificates and diplomas limited to those common to technical education. (V.A.C.S. Art. 2615f—1a, Sec. 6.)

§ 135.52. Fees and Tuition

The board may collect tuition and registration fees authorized by law. (V.A.C.S. Art. 2615f—1, Sec. 4 (part).)

§ 135.53. Nonresident Fee Exemptions

The board may enter into cooperative agreements which exempt technical students from nonresident fees when there are reciprocal privileges granted to Texas residents. (V.A.C.S. Art. 2615f—1a, Sec. 8.)

§ 135.54. Contracts

The board may contract with individuals, federal, state, and local agencies and departments, corporations, and associations to provide educational programs designed to meet the need for trained personnel in Texas. (V.A.C.S. Art. 2615f—1, Sec. 2 (part).)

§ 135.55. Suits; Venue

The board may sue, and may be sued, in the name of the Texas State Technical Institute, with venue being in either McLennan County or Travis County. (V.A.C.S. Art. 2615f—1a, Sec. 3.)

§ 135.56. Disposition of Properties; Bonds and Notes; Pledge of Revenue

(a) The board may lease, sell, transfer, or exchange land and permanent improvements of the institute or any other properties it may acquire which the board determines are not necessary for the establishment or operation of the institute.

(b) The board may irrevocably pledge the fees, charges, revenues, and the proceeds of the lease, sale, transfer, or exchange of or from the buildings, land, structures, and the additions to the existing buildings and structures authorized to be constructed, improved, or equipped and to pledge the revenue of the proceeds of the lease, sale, transfer, or exchange of or from any other revenue-producing buildings, structures, facilities, and other property to the payment of the interest on and the principal of bonds authorized to be issued by Chapter 55 of this code, and to enter into agreements regarding the imposition of fees, charges, and other revenue and the collection, pledge, and disposition as the board deems appropriate. However, where land and improvements on the land, the revenue of which has been pledged to pay bonds, are to be sold, the sale is conditioned on the deposit by the board of the proceeds of the sale to the sinking fund created by the bond order of the issuing authority.

(c) All income received by the board under the provisions of this section shall be accounted for and used in the same manner as other money available to the board for the establishment or operation of the institute.

(d) The bonds authorized to be issued under Chapter 55 of this code are special obligations of the board issuing the bonds and are payable only from a pledge of the fees, charges, and other revenues authorized by this section and from the proceeds of the lease, sale, transfer, or exchange of land and improvements on the land the revenue of which is pledged to secure the payment of interest on and principal of the bonds.

(e) The board, in addition to the authority already provided, may issue revenue bonds for the purposes authorized and in the manner prescribed and under the terms and conditions set forth in Chapter 55 of this code. (V.A.C.S. Art. 2615f—1b, Sec. 1.)

§ 135.57. Insurance

The board may procure the property and liability insurance coverages required by the United States to protect it and its agencies against the possibility of loss or liability in connection with property owned by the United States and loaned to the institute pursuant to the provisions of the National Industrial Reserve Act of 1948, 50 U.S.C. Secs. 451-462. (V.A.C.S. Art. 2615f—1b, Sec. 2.)

§ 135.58. Workmen's Compensation Insurance

The board may provide workmen's compensation insurance for its employees according to the provisions of Chapter 229, Acts of the 50th Legislature, 1947, as amended (Article 8309b, Vernon's Texas Civil Statutes). (V.A.C.S. Art. 2615f—1b, Sec. 3.)

§ 135.59. Contracts with Baylor University

The board may enter into any contracts and agreements with Baylor University for joint participation in graduate programs that may be designed to benefit the State of Texas. (V.A.C.S. Art. 2615f—1a, Sec. 2, subd. b.)

[Chapters 136 to 159 reserved for expansion]

TITLE 4. COMPACTS

Title 4 consisting of Chapters 160 and 161 was added to the Education Code by Acts 1971, 62nd Leg., p. 3014, ch. 994, § 15, effective August 30, 1971 and September 1, 1967, respectively.

CHAPTER 160. REGIONAL EDUCATION COMPACT

Section

- 160.01. State Policy.
- 160.02. Text of Compact.
- 160.03. Compact Approved.
- 160.04. Governor as Representative.
- 160.05. Enrolled Copies.
- 160.06. Consent to Increased Membership.

Section 160.01. State Policy

It is declared to be the policy of the State of Texas to promote the development and maintenance of regional educational services and facilities in the Southern States in the professional, technological, scientific, literary, and other fields so as to provide greater educational advantages for the citizens of the State of Texas and the citizens of the States in the Southern Region. This policy can best be accomplished under the plan embodied in the regional compact entered into by the State of Texas and thirteen other States February 8, 1948, through their respective Governors.

§ 160.02. Text of Compact

The regional education compact, as amended, reads as follows:

THE REGIONAL COMPACT

(As amended)

WHEREAS, The States who are parties hereto have during the past several years, conducted careful investigation looking toward the establishment and maintenance of jointly owned and operated regional educational institutions in the Southern States in the professional, technological, scientific, literary and other fields, so as to provide greater educational advantages and facilities for the citizens of the several States who reside within such region; and

WHEREAS, Meharry Medical College of Nashville, Tennessee, has proposed that its lands, buildings, equipment, and the net income from its endowment be turned over to the Southern States, or to an agency acting in their behalf, to be operated as a regional institution for medical, dental and nursing education upon terms and conditions to be hereafter agreed upon between the Southern States and Meharry Medical College; which proposal, because of the present financial condition of the institution has been approved by the said States who are parties hereto; and

WHEREAS, The said States desire to enter into a compact with each other providing for the planning and establishment of regional educational facilities; now,

THEREFORE, In consideration of the mutual agreements, covenants and obligations assumed by the respective States who are parties hereto (hereinafter referred to as 'States'), the said several States do hereby form a geographical district or region consisting of the areas lying within the boundaries of the contracting States, which, for the purpose of

this Compact, shall constitute an area for regional education supported by public funds derived from taxation by the constituent States and derived from other sources for the establishment, acquisition, operation and maintenance of regional educational schools and institutions, for the benefit of citizens of the respective States residing within the region so established, as may be determined from time to time in accordance with the terms and provisions of this Compact.

The States do further hereby establish and create a joint agency which shall be known as the Board of Control for Southern Regional Education (hereinafter referred to as the 'Board'), the members of which Board shall consist of the Governor of each State, ex officio, and four additional citizens of each State to be appointed by the Governor thereof, at least one of whom shall be selected from the field of education and at least one of whom shall be a member of the Legislature of that State. The Governor shall continue as a member of the Board during his tenure of office as Governor of the State but the members of the Board appointed by the Governor shall hold office for a period of four (4) years except that in the original appointments one Board member so appointed by the Governor shall be designated at the time of his appointment to serve an initial term of two (2) years, one Board member to serve an initial term of three (3) years, and the remaining Board member to serve the full term of four (4) years, but thereafter the successor of each appointed Board member shall serve the full term of four (4) years. Vacancies on the Board caused by death, resignation, refusal or inability to serve, shall be filled by appointment by the Governor for the unexpired portion of the term. The officers of the Board shall be a Chairman, a Vice-Chairman, a Secretary, a Treasurer, and such additional officers as may be created by the Board from time to time. The Board shall meet annually and officers shall be elected to hold office until the next annual meeting. The Board shall have the right to formulate and establish by-laws not inconsistent with the provisions of this Compact to govern its own actions in the performance of the duties delegated to it, including the right to create and appoint an Executive Committee and a Finance Committee with such powers and authority as the Board may delegate to them from time to time. The Board may, within its discretion, elect as its Chairman a person who is not a member of the Board, provided such person resides within a signatory State; and upon such election such person shall become a member of the Board with all the rights and privileges of such membership.

It shall be the duty of the Board to submit plans and recommendations to the States from time to time for their approval and adoption by appropriate legislative action for the development, establishment, acquisition, operation and maintenance of educational schools and institutions within the geographical limits of the regional area of the States, of such character and type and for such educational purposes, professional, technological, scientific, literary, or otherwise, as they may deem and determine to be proper, necessary or advisable. Title to all such educational institutions when so established by appropriate legislative actions of the States, and to all properties and facilities used in connection therewith, shall be vested in said Board as the agency of and for the use and benefit of the said States and citizens thereof; and all such educational institutions shall be operated, maintained and financed in the manner herein set out, subject to any provisions or limitations which may be contained in the legislative Acts of the State authorizing the creation, establishment and operation of such educational institutions.

In addition to the power and authority heretofore granted, the Board shall have the power to enter into such agreements or arrangements with any of the States and with educational institutions or agencies, as may be required in the judgment of the Board, to provide adequate services

and facilities for the graduate, professional, and technical education for the benefit of the citizens of the respective States residing within the region, and such additional and general power and authority as may be vested in the Board from time to time by legislative enactment of the said States.

Any two (2) or more States who are parties of this Compact shall have the right to enter into supplemental agreements providing for the establishment, financing and operation of regional educational institutions for the benefit of citizens residing within an area which constitutes a portion of the general region herein created, such institutions to be financed exclusively by such States and to be controlled exclusively by the members of the Board representing such States, provided such agreement is submitted to and approved by the Board prior to the establishment of such institutions.

Each State agrees that, when authorized by the Legislature, it will from time to time make available and pay over to said Board such funds as may be required for the establishment, acquisition, operation and maintenance of such regional educational institutions as may be authorized by the States under the terms of this Compact, the contribution of each State at all times to be in the proportion that its population bears to the total combined population of the States who are parties hereto as shown from time to time by the most recent official published report of the Bureau of the Census of the United States of America; or upon such other basis as may be agreed upon.

This Compact shall not take effect or be binding upon any State unless and until it shall be approved by proper legislative action of as many as six (6) or more of the States whose Governors have subscribed hereto within a period of eighteen (18) months from the date hereof. When and if six (6) or more States shall have given legislative approval to this Compact within said eighteen (18) months period, it shall be and become binding upon such six (6) or more States sixty (60) days after the date of legislative approval by the sixth State, and the Governors of such six (6) or more States shall forthwith name the members of the Board from their States as hereinabove set out, and the Board shall then meet on call of the Governor of any State approving this Compact, at which time the Board shall elect officers, adopt by-laws, appoint committees and otherwise fully organize. Other States whose names are subscribed hereto shall thereafter become parties hereto upon approval of this Compact by legislative action within two (2) years from the date hereof, upon such conditions as may be agreed upon at the time. Provided, however, that with respect to any State whose constitution may require amendment in order to permit legislative approval of the Compact, such State or States shall become parties hereto upon approval of this Compact by legislative action within seven (7) years from the date hereof, upon such conditions as may be agreed upon at the time.

After becoming effective this Compact shall thereafter continue without limitation of time; provided, however, that it may be terminated at any time by unanimous action of the States; and provided further that any State may withdraw from this Compact if such withdrawal is approved by its Legislature, such withdrawal to become effective two (2) years after written notice thereof to the Board accompanied by a certified copy of the requisite legislative action, but such withdrawal shall not relieve the withdrawing State from its obligations hereunder accruing up to the effective date of such withdrawal. Any State so withdrawing shall ipso facto cease to have any claim to or ownership of any of the property held or vested in the Board or of any of the funds of the Board held under the terms of this Compact.

If any State shall at any time become in default in the performance of any of its obligations assumed herein or with respect to any obligation imposed upon said State as authorized by and in compliance with the

terms and provisions of this Compact, all rights, privileges and benefits of such defaulting State, its members on the Board and its citizens, shall ipso facto be and become suspended from and after the date of such default. Unless such default shall be remedied and made good within a period of one year immediately following the date of such default this Compact may be terminated with respect to such defaulting State by an affirmative vote of three-fourths ($\frac{3}{4}$) of the members of the Board (exclusive of the members representing the State in default), from and after which time such State shall cease to be a party to this Compact and shall have no further claim to or ownership of any of the property held by or vested in the Board or to any of the funds of the Board held under the terms of this Compact, but such termination shall in no manner release such defaulting State from any accrued obligation or otherwise affect this Compact or the rights, duties, privileges or obligations of the remaining States thereunder.

IN WITNESS WHEREOF this Compact has been approved and signed by Governors of the several States, subject to the approval of their respective Legislatures in the manner hereinabove set out, as of the 8th day of February, 1948.

STATE OF FLORIDA

By Millard F. Caldwell

Governor

STATE OF MARYLAND

By Wm. Preston Lane, Jr.

Governor

STATE OF GEORGIA

By M. E. Thompson

Governor

STATE OF LOUISIANA

By J. H. Davis

Governor

STATE OF ALABAMA

By James E. Folsom

Governor

STATE OF MISSISSIPPI

By F. L. Wright

Governor

STATE OF TENNESSEE

By Jim McCord

Governor

STATE OF ARKANSAS

By Ben Laney

Governor

COMMONWEALTH OF VIRGINIA

By William M. Tuck

Governor

STATE OF NORTH CAROLINA

By R. Gregg Cherry

Governor

STATE OF SOUTH CAROLINA

By J. Strom Thurmond

Governor

STATE OF TEXAS

By Beauford H. Jester

Governor

STATE OF OKLAHOMA

By Roy J. Turner

Governor

STATE OF WEST VIRGINIA

By Clarence W. Meadows

Governor

§ 160.03. Compact Approved

The above compact is approved. The State of Texas is declared to be a party to said compact, and the agreements, covenants, and obligations contained therein are declared to be binding on the State of Texas, insofar as is permissible under the Constitution of the State of Texas.

§ 160.04. Governor as Representative

The State of Texas shall be represented by the governor in all matters concerning the regional education program, and he shall have all powers necessary to effectuate the purposes of the compact including the power to make contracts with the Board of Control for Southern Regional Education for the education of Texas citizens in states other than Texas.

§ 160.05. Enrolled Copies

The governor shall sign an enrolled copy of this chapter and sufficient copies shall be provided to supply each state approving the compact with an enrolled copy. The governor shall sign an enrolled copy of Section 160.06 of this code for submission to the Southern Regional Education Board.

§ 160.06. Consent to Increased Membership

Consent is hereby given by the State of Texas to the membership of the States of West Virginia and Delaware in the Southern Regional Education Compact set out above upon the same terms and conditions as if each had signed, ratified, and approved the same as one of the original contracting states, subject to the approval of the other states party to the compact, and subject to the execution of a copy of the compact by the governor of each of the respective states of West Virginia and Delaware, and subject to the approval of the compact and acceptance of its terms, agreements, and obligations by their respective Legislatures.

CHAPTER 161. COMPACT FOR EDUCATION**Section**

- 161.01. Compact Entered Into: Text.
- 161.02. Texas Representatives.
- 161.03. Effective Date.

Section 161.01. Compact Entered Into: Text

The Compact for Education is hereby entered into and enacted into law in the form substantially as follows:

COMPACT FOR EDUCATION**ARTICLE I. PURPOSE AND POLICY**

Section A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the State and local levels.
2. Provide a forum for the discussion, development, crystalization and recommendation of public policy alternatives in the field of education.
3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the Nation, so that the executive and legislative branches of State Government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of State and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

Section B. It is the policy of this compact to encourage and promote local and State initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and States.

Section C. The party States recognize that each of them has an interest in the quality and quantity of education furnished in each of the other States, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the Nation, and because the products and services contributing to the health, welfare and economic advancement of each State are supplied in significant part by persons educated in other States.

ARTICLE II. STATE DEFINED

As used in this Compact, "State" means a State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III. THE COMMISSION

Section A. The Education Commission of the States, hereinafter called "the Commission," is hereby established. The Commission shall consist of seven members representing each party State. One of such members shall be the Governor or his designated representative, and six shall be appointed by and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. In addition to any other principles or requirements which a State may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party State shall be that the members representing such State shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the State Government, higher education, the State education system, local education, lay and professional, public and non-public educational leadership. Of those appointees, one may be the head of a State agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the Commission representing the party States, there may be not to exceed ten non-voting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

Section B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the commissioners are present. The Commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III(j).

Section C. The Commission shall have a seal.

Section D. The Commission shall elect annually, from among its members, a chairman, who shall be a Governor, a vice chairman and a treasurer. The Commission shall provide for the appointment of an executive

director. Such executive director shall serve at the pleasure of the Commission, and together with the treasurer and such other personnel as the Commission may deem appropriate shall be bonded in such amount as the Commission shall determine. The executive director shall be secretary.

Section E. Irrespective of the civil service, personnel or other merit system laws of any of the party States, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for their personnel policies and programs of the Commission.

Section F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

Section G. The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any State, the United States, or any other governmental agency or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

Section H. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

Section I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party States.

Section J. The Commission annually shall make to the Governor and legislature of each party State a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

ARTICLE IV. POWERS

In addition to authority conferred on the Commission by other provisions of the compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.
2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.
3. Develop proposals for adequate financing of education as a whole and at each of its many levels.
4. Conduct or participate in research of the types referred to in this Article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V. COOPERATION WITH FEDERAL GOVERNMENT

Section A. If the laws of the United States specifically so provided, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to Federal law, and may be drawn from any one or more branches of the Federal Government, but no such representative shall have a vote on the Commission.

Section B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the States, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI. COMMITTEES

Section A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of thirty members which, subject to the provisions of this compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One-third of the voting membership of the steering committee shall consist of Governors, and the remainder shall consist of other members of the Commission. A Federal representative on the Commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the Commission shall be elected as follows: fifteen for one year and fifteen for two years. The chairman, vice chairman, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two-term limitation.

Section B. The Commission may establish advisory and technical committees composed of State, local, and Federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the States concerned, be established to consider any matter of special concern to two or more of the party States.

Section C. The Commission may establish such additional committees as its bylaws may provide.

ARTICLE VII. FINANCE

Section A. The Commission shall advise the Governor or designated officer or officers of each party State of its budget and estimated expenditures for such period as may be required by the laws of that party

State. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States.

Section B. The total amount of appropriation requests under any budget shall be apportioned among the party States. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party States.

Section C. The Commission shall not pledge the credit of any party States. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III(g) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to Article III(g) thereof, the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.

Section D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.

Section E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.

Section F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VIII. ELIGIBLE PARTIES; ENTRY INTO AND WITHDRAWAL

Section A. This compact shall have as eligible parties all States, Territories, and Possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a Governor, the term "Governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

Section B. Any State or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

Section C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his State a party only until December 31, 1967. During any period when a State is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the Commission from his State, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him.

Section D. Except for a withdrawal effective on December 31, 1967, in accordance with paragraph C of this Article, any party State may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

ARTICLE IX. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any Government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any Government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the State affected as to all severable matters.

§ 161.02. Texas Representatives

The Texas membership to the Educational Commission of the States shall be the governor or his designated representative and six citizens of the state who shall be appointed and serve at the pleasure of the governor. These seven members shall officially represent Texas on the Education Commission of the States.

§ 161.03. Effective Date

The effective date of this chapter shall be September 1, 1967.

DISPOSITION TABLE

This table covers the complete Education Code as published in the 1970 Supplement and in this Supplement.

Vernon's Ann. Civ.St. Article	V.T.C.A. Education Code Section	Vernon's Ann. Civ.St. Article	V.T.C.A. Education Code Section
136 -----	88.201	1269j—101 § 1 -----	53.01
	88.205		53.31
137 -----	88.202	§ 2 -----	53.02
	88.203	§ 3 -----	53.11
138 -----	88.203		53.12
139 -----	88.203		53.13
140 -----	88.204	§ 4 -----	53.14
141 -----	88.203	§ 5 -----	53.15
142 -----	88.206	§ 6 -----	53.33
143 -----	88.206	§ 7 -----	53.34
144 -----	88.208	§ 8 -----	53.35
145 -----	88.207	§ 9 -----	53.36
146 -----	88.209	§ 10 -----	53.37
147 -----	88.210	§ 11 -----	53.38
148 -----	88.211	§ 12 -----	53.39
149 -----	88.212	§ 13 -----	53.40
149a to 149k -----	88.203	§ 14 -----	53.44
634(B) -----	21.164	§ 15 -----	53.43
	21.165	§ 16 -----	53.46
	21.166	§ 17 -----	53.32
	21.167		53.45
	21.168	§ 18 -----	53.41
	21.169	§ 19 -----	53.42
634(C) -----	21.163	1415a -----	32.01 et seq.
689a—17a § 1 -----	23.41	2543c -----	51.008
	23.42	2584 -----	65.11
	23.43		65.13
	23.45		65.15
	23.46	2584a -----	65.11
	23.47	2585 -----	65.31
§ 2 -----	23.44	2585a -----	67.22
	23.48	2585b -----	65.33
§ 3 -----	23.49	2585c § 2(a) -----	67.02
§ 4 -----	4.03(c)	§ 2(b) -----	67.51
	4.03(d)	§ 2(c) -----	67.61
	4.03(e)	§ 2(d) -----	74.151
§ 5 -----	23.50	§ 2(e) -----	73.201
689a—19a § 1 -----	17.56	§ 2(f) -----	73.301
§ 2 -----	17.57	§ 2(g) -----	73.301
	17.58	§ 2(h) -----	68.02
§ 3 -----	11.63(b)	§ 2(i) -----	69.02
§ 4 -----	4.03(a)	2585d § 3(a) -----	67.51
	4.03(b)		67.61
	4.03(e)	§ 3(b) -----	74.001
§ 5 -----	11.63(b)	§ 3(c) -----	73.301
695i -----	17.91	§ 3(d) -----	73.001
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1109c -----	23.31		

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Vernon's Ann. Civ.St. Article	V.T.C.A. Education Code Section	Vernon's Ann. Civ.St. Article	V.T.C.A. Education Code Section
2585e § 1	65.31	2603b—1	65.39
§ 2	68.03		66.41
§ 3	67.62	2603b—2	—
§ 4	67.52	2603b—3	69.21
2589	65.14	2603b—4	—
2589a	—	2603c	—
2589b	—	2603c1	—
2589c	67.21	2603c2	—
2589d	67.21	2603d	—
2589e	67.21	2603e § 1	73.101
2589f	67.23	§ 2	73.103
2590	66.01	§ 3	73.104
2591	66.02	§ 4	73.105
2591a	66.04	§ 5	73.102
2591b	66.05	§ 6	73.106
2592	66.03	§ 7	73.107
2592a	65.39		73.108
	66.41	§ 8	73.108
2593	65.34	§ 9	73.107
2593a	—	§ 10	73.109
2594	65.35	§ 11	—
2594a	65.37	§ 12	73.110
2595	65.36	2603f § 1	73.101
2595a	—		73.111
2596	65.39		73.201
	66.41	§ 2	73.202
2597	66.44	2603f—1	—
2598	66.42	2603f—2 § 1	73.151
2599	—	§ 2	73.152
2600	—	§ 3	73.153
2601	—	§ 4	73.154
2602	—	§ 5	73.155
2603	—	§ 6	73.156
2603a § 1	66.61		73.201
	66.62	§ 7	—
§ 2	—	§ 8	—
§ 3	66.63	2603f—2.1	73.157
§ 4	66.64	2603f—3 § 1	74.251
§ 5	66.65		74.252
§ 7	66.67	§ 2	74.253
§ 8(a)	66.67	§ 3	74.254
§ 8(b)—1	66.68	§ 4	74.255
§ 8(b)—2	66.69	2603f—4	65.40
§ 8(c)	66.71	2603g	74.105
§ 9	66.72	2603h	74.002
§ 10	66.73	2603i	—
§ 11	66.74	2603j	—
§ 12	66.75	2604	65.38
§ 13	66.76	2606	—
§ 14	66.77	2606a	—
	66.78	2606b § 1	74.101
§ 15	—	§ 1a	74.101
§ 16	66.80	§ 2	74.102
§ 18	66.62	§ 3	74.101
	66.66	§ 4	74.103
	66.79	§ 5	74.104
2603a—1	66.70		
2603b	66.43		

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Vernon's Ann. Civ.St. Article	V.T.C.A. Education Code Section	Vernon's Ann. Civ.St. Article	V.T.C.A. Education Code Section
2606c § 1	74.151	2606d § 1	75.101
	74.154		111.61
§ 2	74.152	§ 2	75.103
§ 3	74.153		75.104
§ 4	—		111.63
2606c—1	—		111.64
2606c—1.1 § 1	73.051	§ 3	75.102
§ 2	73.052		111.62
§ 3	73.053	§ 4	75.105
§ 4	74.201		111.65
§ 5	73.054	2607	86.02
§ 5	74.202	2607a § 1	86.02
§ 6	73.055	§ 2	85.11
	74.203	§ 3	85.11
§ 7	73.056	2608	86.03
	74.204	2609	—
§ 8	73.057	2610	85.11
	74.205		85.14
2606c—2 § 1	74.301		85.15
	74.302	2611	85.13
§ 2	74.303	2612	85.15
§ 3	74.306	2613	—
§ 4	74.304	Subd. 1	86.11
§ 5	74.305	Subd. 2	86.12
2606c—2.1 § 1	74.351	Subd. 3	—
	74.352	Subd. 4	86.14
§ 2	74.353	Subd. 5	86.22
§ 3	74.354	Subd. 6	85.21
§ 4	74.355	Subd. 7	86.15
2606c—2.2 § 1	74.401	Subd. 8	86.13
§ 2	74.402	Subd. 9	85.22
§ 3	74.403	Subd. 10	88.101
§ 4	74.404		88.102
2606c—3 § 1	71.01		88.105
§ 2	71.02	Subd. 10a	88.103
	71.03	Subd. 11	88.107
	71.04	Subd. 12	88.111
	71.05	2613a	88.109
§ 3	71.06	2613a—1	85.23
§ 4	—	2613a—2	88.108
2606c—3.1 § 1	70.01	2613a—3 § 1(a)	85.51
	70.02	§ 1(b)	85.70
§ 2	70.03	§ 1(c)	85.70
	70.04	§ 2	85.53
§ 3	70.05	§ 3	85.54
§ 4	70.06		85.55
§ 5	70.07	§ 4	85.55
2606c—4 § 1	72.01	§ 4a	85.52
§ 2	72.02	§ 5	85.56
	72.03		85.58
	72.04	§ 6	85.63
§ 3	72.05		85.58
§ 4	72.06	§ 7(a)	85.58
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		§ 7(c)	85.59
		§ 7(d)	85.62

Vernon's Ann. Civ.St. Article	V.T.C.A. Education Code Section	Vernon's Ann. Civ.St. Article	V.T.C.A. Education Code Section
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§ 2	112.11	2624b	—
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	112.16		107.22
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§ 3	112.32		107.41
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§ 3a	112.35	2627	107.42
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§ 7	112.18	2628	—
§ 8	—	2628a § 2	107.61
§ 9	—	§ 3	107.62
§ 10	—	§ 4	107.63
§ 11	—		107.64
§ 12	—		107.65
§ 13	—	§ 5	107.66
§ 14	—	§ 6	107.67
§ 15	112.34	§ 7	107.68
§ 16	—	2628a—1	104.01
§ 17	—	2628a—1a	104.01
§ 18	112.36	2628a—2	104.11
§ 19	—		104.12
2619b § 1	112.01		104.13
2620	68.02		104.14
2620a § 2	68.02	2628a—2a	104.13
	68.03	2628a—3	—
§ 3	68.02	2628a—4	—
2621	—	2628a—5	104.22
2621a	68.02	2628a—6	—
2622	—	2628a—7	104.21
2623	—	2628a—8	104.24
2623a	—	2628a—9 § 1	104.71
2623b—1	73.301		109.61
2623b—2	73.302	§ 2	104.73
2623b—3	73.303		109.63
2623b—4	73.304	§ 3	104.74
2623b—5	—		109.64
2623b—6	73.305	§ 4	104.75
2623c—1	103.01		109.65
2623c—2	103.02	§ 5	104.77
	103.03		109.67
	103.04	§ 6	104.78
	103.05		109.68
	103.06	§ 7(a)	104.79
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2623c—3	—	§ 7(b)	104.80
2623c—4	103.07		109.70
2623c—5	—	§ 7(c)	104.81
2623c—6	103.08		109.71
2623c—7	—	§ 7(d)	104.82
2623c—8	—		109.72
2623c—9	103.09	§ 8	104.83
2624	107.01		109.73

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Vernon's Ann. Civ.St. Article	V.T.C.A. Education Code Section	Vernon's Ann. Civ.St. Article	V.T.C.A. Education Code Section
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	109.74	§ 8	110.10
§ 10	104.85	2633	69.02
	109.75	2633a	69.02
§ 11	104.86	2634	—
	109.76	2635	—
§ 12	104.87	2636	—
	109.77	2637	—
§ 13	104.88	2637a § 1	108.01
	109.78	§ 1a	108.01
§ 14	104.72	§ 1b	108.15
	104.76	2637b	108.11
	104.89		108.12
	109.62		108.14
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	109.79	2637d	108.31
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2628a—11 § 1	104.51	2637f	108.33
§ 2	104.52	2637g	108.34
§ 3	104.53	2637h	—
§ 4	104.54	2637h—1	108.37
§ 5	104.55	2637i	—
§ 6	104.56	2637j § 1	108.32
§ 7	104.57	§ 2	—
§ 8	104.58	§ 3	108.35
§ 10	104.59	§ 4	108.13
2628d	—	2637k	108.36
2628c § 1	104.41	2638	87.102
§ 2	104.42	2639	—
§ 3	104.43	2640	—
§ 4	104.44	2641	—
2628f § 1	104.91	2642	—
§ 2	104.92	2643	—
§ 3	104.93	2643b § 1	—
2629	109.01	§ 2	87.101
2629a	109.01		87.102
2630 Subd. (a)	109.21		106.01
Subd. (b)	109.22	§ 3	106.11
Subd. (c)	109.23		106.12
Subd. (d)	—		106.13
2631	—		106.14
2632	109.41		106.16
2632a	109.43	§ 4	106.15
2632b	109.47		106.32
2632c	109.46	§ 5	—
2632d	—	§ 6	106.33
2632e	109.45		—
2632f	—	§ 7	106.31
2632f—1	—	§ 8	106.34
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2632h	109.44	§ 10	—
2632i § 1	110.01	§ 11	—
§ 2	110.02	§ 12	—
§ 3	110.03	2643b—1	—
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	106.54		102.14
	106.55		102.15
§ 3	106.58		102.16
§ 4	106.59	§ 3	102.31
§ 5	106.57	§ 4	102.31
§ 6	106.56	§ 5	—
§ 7	106.60	2647c	105.42
2643d—1	106.35	2647f	—
2643c § 1	106.51	2647f—1 § 1(a)	101.11
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§ 3	106.53	§ 2	101.13
§ 4	106.54	§ 3	101.14
§ 5	106.51		101.15
§ 6	—		101.16
§ 7	106.55	§ 4	101.17
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2646	95.25	2647h—1 § 1	100.11
2647	95.02	§ 2	100.11
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§ 3	51.103	2651a § 1	105.01
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§ 5	51.105		105.12
§ 6	51.106		105.13
§ 7	51.107		105.14
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§ 3	105.63	§ 1(i)	54.056
2653b	105.43	§ 1(j)	54.057
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§ 6	96.23		54.501
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2654-1e § 1	21.113	2654-8	13.904
§ 2	21.114	2655	11.25
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§ 2	11.41	2671	15.02(d)
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2654-3a	15.03		15.02(c)
2654-3b	11.29		15.02(f)
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2675k § 1	26.01	§ 9	30.44
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§ 8	26.12	§ 9	31.40
§ 8(a)	26.13	§ 10	31.35
§ 8(b)	26.14	§ 11	31.41
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	30.14	2677	17.03
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§ 6(b)	30.18	2679	17.24
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§ 6(d)	30.19(b)	2681	17.07
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§ 3	27.03		17.49
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§ 4	27.05	2703	17.01
§ 5	27.06		17.02
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§ 6	27.08		17.04
2682	19.001		17.05
2683	17.21		17.06
	17.22	2704	17.08
	17.31	2705	17.09
2683a	21.903	2706	17.46
2683b	17.28		17.55
2684	17.07	2707	—
	17.08	2708	17.21
	17.55		17.22
2685	17.29	2709	—
2686	17.63	2710	—
2687	17.08	2711	17.23
	17.09	2712	19.103
2687a	21.170	2713	—
2688	17.41	2714	—
	17.42	2715	—
	17.43	2716	14.02
	17.44	2717	17.31
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2688a	17.41	2721	—
2688e	17.64	2722	—
2689	17.49	2723	—
2690	17.59	2724	18.02
2691	17.60	2725	18.07
2692	17.73	2726	18.13
2693	17.59	2727	17.59
2694	17.61	2728	—
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2695	—	2729a	17.01
2696	17.25 Rep.	2730	17.01
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	21.063	2733	—
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2698	21.066	2740	—
2699	—	2741	19.031
2699a	21.073	2741a	21.006
2700	17.29	2742	19.031
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§ 9	19.431	2752	22.10(a)
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§ 10	19.434	2754	22.08(d)
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	19.436	2756	21.903
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§ 12	19.401	2756c	11.28(i)
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2742f	19.261		19.202
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2742j	19.401		19.204
2742m	19.402		19.205(a)
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2743	19.101	2758	19.203(b)
2744	22.11		19.205(b)
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	19.034		23.19
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2745	22.01		19.162(c)
	22.02		19.162(d)
	22.03	2760	19.162(e)
	22.04	2761	19.162(f)
2745a	19.104		19.162(g)
2745b	17.03		19.162(h)
	22.02		19.162(i)
2745c	17.03		19.162(j)
	22.02	2761a	19.163
	23.03		24.02
2746	22.02	2762	19.162(k)
2746a	22.02	2763	23.01
	23.03		23.02
	23.04	2764	19.106
	23.05	2766	19.261
	23.10	2767	19.361
	22.02		19.362
2746b	21.401		19.363
2746c	21.402		19.364
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2747	22.03	2767c	19.368(e)
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2750	22.09	2769	19.161(b)
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2774	24.04	2792b	—
2774c	23.12	2793	—
2775	23.08	2794	—
2775d	23.021	2795	22.11
2776	23.07	2796	—
2776a	21.007	2797	—
2777	23.09	2798	—
2777—1	23.18	2799	24.06(a)
2778	23.19	2800	24.06(b)
2779	23.19	2801	23.27
2779b	23.93		24.06(c)
2780	23.26		24.06(d)
2781	23.28	2802	24.07
2781a	13.901	2802—1	23.98(a)
2783	—	2802e	20.21
2783c	19.166		20.22
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2784e	20.01		20.24
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2784f	18.31		20.25
2785	20.04		20.26
2785a	23.97		20.27
2786	20.01	2802e—5	20.50
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2786d	20.42	2802j	24.07
2786e	20.43	2802k § 1	28.01
2787	20.01	§ 2	28.02
	20.04	§ 3	28.03
2787a	15.05	§ 4	28.04
2788	20.01	§ 5	28.05
	20.04	§ 6	28.06
2789	20.05	§ 7	28.07
2789a	20.05	§ 8	28.08
2789b	20.05	§ 9	28.09
2789c	20.05	§ 10	28.10
2789d	20.05	§ 11	28.11
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2790	20.02	2803a	19.165
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	19.235		130.043
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	19.239	2815h.1	130.005
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	19.242	2815h—3b	130.122
2806c	19.237	2815h—5	130.122
	19.241	2815h—8	130.122
	19.242	2815h—9	—
2807	19.243	2815j—1	130.003
2808	22.01	2815j—2	130.003
2809	22.09	2815m § 1	130.041
2810	22.09		130.042
2811	—	§ 1a	130.044
2812	—	2815o	130.081
2813	—	2815o—1	130.095
2814	—	2815o—1b	130.082
2815	19.244	2815o—1c	130.083
2815—1	19.245	2815p—1	130.069
2815—3 § 1	23.991	2815q	130.133
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§ 2	23.997	2816a	14.05 Rep.
§ 2a	23.998	2817	14.04 Rep.
2815h § 1	130.011	2817a	14.04 Rep.
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§ 3	130.013	2820	14.08
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§ 17	130.031	2823	15.01
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§ 18	130.033	2825	17.83
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2830	17.73	2858	12.31
2831	17.73	2860	—
2832	—	2861	12.23(d)
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§ 3	23.73	2865	12.11(f)
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FAMILY CODE

TITLE 1. HUSBAND AND WIFE

SUBTITLE A. THE MARRIAGE RELATIONSHIP

CHAPTER 1. ENTERING THE MARRIAGE RELATIONSHIP

SUBCHAPTER A. APPLICATION FOR MARRIAGE LICENSE

§ 1.03. Application Form

* * * * *

(b) The application form shall contain:

(1) a heading entitled "Application for Marriage License, _____ County, Texas";

(2) spaces for each applicant's full name (including the woman's maiden surname), address, social security number, if any, date of birth, place of birth (including city, county, and state), and race;

(3) a space for indicating the document tendered by each applicant as proof of identity and age;

(4) spaces for indicating whether each applicant has been divorced, and if so, whether the applicant has been divorced during the six-month period preceding the date of the application;

(5) a printed oath reading: "I SOLEMNLY SWEAR (OR AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS CORRECT, THAT I AM NOT PRESENTLY MARRIED, AND THAT I AM NOT RELATED TO THE OTHER APPLICANT WITHIN THE DEGREES PROHIBITED BY LAW";

(6) spaces immediately below the printed oath for the applicants' signatures;

(7) the jurat of the county clerk;

(8) spaces for indicating the date of the marriage and the county in which it is performed; and

(9) a space for the address to which the applicants desire the executed license to be mailed.

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 2351, ch. 715, § 1, eff. June 8, 1971.

SUBCHAPTER E. MARRIAGE WITHOUT FORMALITIES

§ 1.92. Declaration and Registration

* * * * *

(c) If either party was underage, as provided in Section 2.41 of this code, at the time of the marriage and if either party is still underage at the time of filing a declaration, the declaration shall have attached an acknowledged consent executed by the parents of each underage person.

(d) The county clerk shall:

(1) determine that all necessary information is entered on the form;

(2) administer the oath to each party;

(3) have each party sign the declaration in his presence; and

(4) execute his certificate on the declaration.

(e) The county clerk shall record the declaration, deliver the original of the declaration to the parties, and transmit a copy to the Bureau of Vital Statistics.

(f) A declaration executed under this section is prima facie evidence of the marriage.

Subsecs. (c)–(e) amended by Acts 1971, 62nd Leg., p. 2508, ch. 826, § 2, eff. June 9, 1971; Subsec. (f) added by Acts 1971, 62nd Leg., p. 2508, ch. 826, § 2, eff. June 9, 1971.

CHAPTER 2. VALIDITY OF MARRIAGE

SUBCHAPTER C. VOIDABLE MARRIAGES

§ 2.41. Underage

(a) The licensed or informal marriage of a male 16 years of age or older but under 19 years of age, or a female 14 years of age or older but under 18 years of age, without parental consent as provided by Sections 1.52 and 1.92 of this code, is voidable and subject to annulment at the discretion of the court on the petition of a next friend for the benefit of the underage party, or on the petition of the parent or the guardian of the person of the underage party. However, a suit may not be brought under this subsection more than 90 days after the date of the marriage.

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 2507, ch. 826, § 1, eff. June 9, 1971.

* * * * *

SUBTITLE B. PROPERTY RIGHTS AND LIABILITIES

CHAPTER 5. MARITAL PROPERTY

SUBCHAPTER B. MANAGEMENT, CONTROL, AND DISPOSITION OF MARITAL PROPERTY

5.26. Circumstance of Person Missing in Action or Prisoner of War.

SUBCHAPTER E. HOMESTEAD RIGHTS

5.87. Community Homestead; Circumstance of Person Missing in Action or Prisoner of War; Sale Without Joinder.

SUBCHAPTER B. MANAGEMENT, CONTROL, AND DISPOSITION OF MARITAL PROPERTY

§ 5.26. Circumstance of Person Missing in Action or Prisoner of War

(a) If a spouse is reported by the United States Department of Defense to be a prisoner of war or missing in action, then not less than six months thereafter the spouse of a prisoner of war or person missing in action, may file a sworn petition stating the facts that make it desirable for the petitioning spouse to manage, control, and dispose of community property (described or defined in the petition) that would otherwise be subject to the sole or joint management, control, and disposition of the other.

(b) The petition shall be filed in a district court of the county in which the petitioning spouse resided at the time the United States Department of Defense report was made. If both spouses are nonresidents of the state at that time, the petition shall be filed in the district court of any county in which any part of the described or defined community property is located.

(c) The court shall appoint an attorney ad litem for the prisoner of war or person missing in action and shall allow him a reasonable fee for his services to be taxed as a part of the costs.

(d) A notice stating that the petition has been filed and specifying the date of the hearing, accompanied by a copy of the petition, shall be issued and served on the attorney ad litem representing respondent spouse as in other cases.

(e) After hearing the evidence, the court, on terms it deems just and equitable, shall enter an order describing or defining the community property at issue that will be subject to the management, control, and disposition of each spouse during marriage.

(f) The jurisdiction of the court is continuing, and on motion of either spouse, after notice stating that the motion has been filed and specifying the date of the hearing, accompanied by a copy of the motion, has been issued and served on the respondent spouse as in other cases, the court shall amend or vacate the original order if the spouse who was a prisoner of war or missing in action returns.

(g) An order authorized by Subsection (e) of this section affecting real property is void as against a good faith purchaser for value or against a creditor without notice unless the order is recorded in the deed records of the county in which the real property is located.

(h) In the exercise of its equity powers, the court may impose any conditions and restrictions it deems necessary to protect the rights of the other spouse. The court may require a bond conditioned on faithful administration of the proceeds or may require payment of all or a portion of the proceeds to the registry of the court, to be disbursed in accordance with the court's further directions.

(i) This section is cumulative of the rights, powers, and remedies otherwise afforded the spouses by law.

Added by Acts 1971, 62nd Leg., p. 2712, ch. 884, § 1, eff. June 10, 1971.

Receivership

Section 3 of the 1971 act, which by sections 1 and 2 added this section and section 5.87, respectively, provided:

Sec. 3. (a) Appointment of Receiver. When the separate property of a person reported by the United States Department of Defense to be a prisoner of war or missing in action, or any portion thereof, appears in danger of injury, loss, or waste, and in need of a representative, a district judge of the county where the prisoner of war or person missing in action, or the spouse of such a person, resides, or where the endangered separate property is situated, shall by order, with or without application, appoint a suitable person as receiver to take charge of such endangered separate property, requiring bond of such person as in ordinary receiverships in such sum as the judge deems necessary to protect the separate property, and specifying such duties and powers of the receiver as the judge deems necessary for the protection, conservation, and preservation of the separate property. The clerk shall forthwith enter such order upon the minutes of the court; and the person so appointed shall forthwith make his bond, submit same to the judge for approval, file same, when approved, with the clerk, and proceed to take charge of such endangered separate property pursuant to the duties and powers vested in him by the order of appointment and by such subsequent orders as the judge shall make from time to time.

(b) Expenditures by the Receiver. Whenever, during the pendency of such receivership, the needs of the spouse or depend-

ent children of the prisoner of war or person missing in action shall require the use of the income or corpus of the estate for the education, clothing, or subsistence, the judge shall, with or without application, by order entered upon the minutes of his court, appropriate an amount of such income or corpus sufficient for such purpose; and the same shall be used by the receiver to pay such claims for such education, clothing, or subsistence as are presented to the judge and approved and ordered by him to be paid.

(c) Investments, Loans and Contributions by the Receiver. Whenever, during the pendency of such receivership, the receiver shall have on hand an amount of money belonging to such prisoner of war or person missing in action in excess of the amount needed for current necessities and expenses, he may, under direction of the judge, invest, lend, or contribute such excess money or any portion or portions thereof in the manner, for the security, and on the terms and conditions provided in the Probate Code for investments, loans, or contributions by guardians, and he shall report to the judge all such transactions in the manner that reports are required of guardians.

(d) Receiver's Expenses, Account, and Compensation. All necessary expenses incurred by the receiver in administering the property may be rendered monthly to the judge in the form of a sworn statement of account, including a report of the receiver's acts, the condition of the property, the status of the threatened danger to the

property and the progress made toward abatement of such danger. If the judge is satisfied that such statement is correct and reasonable in all respects, he shall promptly enter his order approving the same and authorizing the receiver to reimburse himself out of the funds in his hands. For his official services rendered, the receiver shall be compensated in the same manner and amount as provided by the Probate Code for similar services rendered by guardians of estates.

(e) Closing Receivership. When the threatened danger has abated and the separate property is no longer liable to injury, loss, or waste for want of a representative, the receiver shall so report to the judge, filing with the clerk a full and final sworn account of all property received into his hands, all sums paid out, all acts performed by him with respect to such property, and all property remaining in his hands.

(f) Action of the Judge. If upon hearing such report and account, the judge is sat-

isfied that the danger of injury, loss, or waste has abated and that said report and account are correct, he shall enter an order so finding and shall direct the receiver to deliver said property to the person from whom he took possession as receiver, or to the person who was a prisoner of war or missing in action, or to such other person as the judge may find to be entitled to possession of the estate, which person in turn shall execute and file with the clerk an appropriate receipt for the property thus delivered. The order of the judge shall discharge the receiver and his sureties. If the judge is not satisfied that the danger has abated, or if he is not satisfied with the report and account, he shall enter an order continuing the receivership in effect until he is so satisfied.

(g) Recordation of Proceedings. All orders, bonds, reports, accounts, and notices in the receivership proceedings shall be recorded in the minutes of the court.

SUBCHAPTER E. HOMESTEAD RIGHTS

§ 5.87. Community Homestead; Circumstance of Person Missing in Action or Prisoner of War; Sale Without Joinder

(a) If the homestead is the community property of the spouses and if a spouse is reported by the United States Department of Defense to be a prisoner of war or missing in action, then not less than six months thereafter the spouse of the prisoner of war or person missing in action, who desires to sell, convey, or encumber the community homestead of the spouses, may file a sworn petition giving a description of the property and stating the facts that make it desirable for the petitioning spouse to sell, convey, or encumber the homestead without the joinder of the other spouse.

(b) The petition shall be filed in a district court of the county in which any portion of the property is located. The court shall appoint an attorney ad litem for the prisoner of war or person missing in action and shall allow him a reasonable fee for his services to be taxed as a part of the costs. Notice shall be issued and served in the manner provided in Subsection (d) of Section 5.26 of this code.

(c) After hearing the evidence, the court shall enter an order granting relief if it appears necessary or advisable, and on terms the court deems advisable.

(d) In the exercise of its equity powers, the court may impose any conditions and restrictions it deems necessary to protect the rights of the other spouse. The court may require a bond conditioned on faithful administration of the proceeds or may require payment of all or a portion of the proceeds to the registry of the court, to be disbursed in accordance with the court's further directions.

(e) This section is cumulative of the rights, powers, and remedies otherwise afforded the spouses by law.

Added by Acts 1971, 62nd Leg., p. 2712, ch. 884, § 2, eff. June 10, 1971.

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WATER CODE

CHAPTER 58

H. B. No. 343

An Act adopting the Water Code, a formal revision of the general and permanent statutes relating to water rights, water development, water quality control, river compacts, and general law districts; repealing the statutes replaced by the code; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. **Adoption of Code.** The Water Code is adopted to read as follows:

TITLE 1. GENERAL PROVISIONS

Chapter

1. General Provisions.

TITLE 2. STATE WATER ADMINISTRATION

SUBTITLE A. WATER RIGHTS

5. Water Rights.
6. Water Rights Commission.

SUBTITLE B. WATER DEVELOPMENT

11. Water Development Board.
- [12 and 13. Reserved for expansion].
14. Weather Modification.

SUBTITLE C. WATER QUALITY CONTROL

21. Water Quality Board.
22. Disposal Wells.
23. Water Wells.
24. Salt Water Haulers.
25. Regional Waste Disposal.

TITLE 3. COMPACTS

41. Rio Grande Compact.
42. Pecos River Compact.
43. Canadian River Compact.
44. Sabine River Compact.
45. Negotiation of Red River Compact.

TITLE 4. GENERAL LAW DISTRICTS

50. Provisions Generally Applicable to Districts.
51. Water Control and Improvement Districts.
52. Underground Water Conservation Districts.

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- 53. Fresh Water Supply Districts.
- 54. Municipal Utility Districts.
- 55. Water Improvement Districts.
- 56. Drainage Districts.
- 57. Levee Improvement Districts.
- [58 and 59. Reserved for expansion].
- 60. Navigation Districts—General Provisions.
- 61. Article III, Section 52, Navigation Districts.
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- 63. Self-Liquidating Navigation Districts.

TITLE 1. GENERAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

SUBCHAPTER A. PURPOSE AND POLICY

Section

- 1.001. Purpose of Code.
- 1.002. Construction of Code.
- 1.003. Public Policy.

[Sections 1.04 to 1.10 reserved for expansion]

SUBCHAPTER B. DEFINITIONS

- 1.011, 1.012. Repealed.

SUBCHAPTER A. PURPOSE AND POLICY

Section 1.001. Purpose of Code

(a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in Chapter 448, Acts of the 58th Legislature, Regular Session, 1963 (Article 5429b—1, Vernon's Texas Civil Statutes). The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the general and permanent water law more accessible and understandable, by:

- (1) rearranging the statutes into a more logical order;
- (2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;
- (3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and
- (4) restating the law in modern American English to the greatest extent possible.

(c) This restatement shall not in any way make any changes in the substantive laws of the State of Texas.

(d) Laws of a local or special nature, such as statutes creating various kinds of conservation and reclamation districts, are not included in, or

affected by, this code. The legislature believes that persons interested in these local and special laws may rely on the session laws and on compilations of these laws. (New.)

§ 1.002. Construction of Code

The Code Construction Act (Article 5429b—2, Vernon's Texas Civil Statutes) applies to the construction of each provision in this code, except as otherwise expressly provided by this code. (New.)

§ 1.003. Public Policy

It is the public policy of the state to provide for the conservation and development of the state's natural resources, including:

- (1) the control, storage, preservation, and distribution of the state's storm and flood waters and the waters of its rivers and streams for irrigation, power, and other useful purposes;
- (2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of the state's overflowed land and other land needing drainage;
- (4) the conservation and development of its forest, water, and hydroelectric power; and
- (5) the navigation of the state's inland and coastal waters. (R.S. Art. 7466.)

[Sections 1.04 to 1.10 reserved for expansion]

SUBCHAPTER B. DEFINITIONS

§§ 1.011, 1.012. Repealed by Acts 1971, 62nd Leg., p. 1769, ch. 518, § 10, eff. May 31, 1971

Sections 1.011 and 1.012 provided for the measurements of flowing and standing water, respectively.

TITLE 2. STATE WATER ADMINISTRATION

SUBTITLE A. WATER RIGHTS

CHAPTER 5. WATER RIGHTS

SUBCHAPTER A. GENERAL PROVISIONS

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- 5.003. Streams that Form Boundaries Included.
- 5.004. Commission to Receive Certified Copies of Judgments, Etc.
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[Sections 5.006 to 5.020 reserved for expansion]

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SUBCHAPTER A. GENERAL PROVISIONS**Section 5.001. Vested Rights Not Affected**

(a) Nothing in this code affects vested private rights to the use of water, except to the extent that provisions of Subchapter G of this chapter might affect these rights. (R.S. Arts. 7469, 7620.)

(b) This code does not recognize any riparian right in the owner of any land the title to which passed out of the State of Texas after July 1, 1895. (R.S. Art. 7619.)

§ 5.002. Definitions

In this chapter and in Chapter 6 of this code, unless the context requires a different definition:

- (1) "commission" means the Texas Water Rights Commission;
- (2) "board" means the Texas Water Development Board; (R.S. Art. 7477, Sec. 2, as amended.)
- (3) "beneficial use" means use of the amount of water which is economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose; (R.S. Art. 7476.)
- (4) "water right" means a right acquired under the laws of this state to impound, divert, or use state water; and (R.S. Art. 7542, sen. 1; 60th Legis., Ch. 45, Sec. 2 (part).)
- (5) "appropriator" means a person who has made beneficial use of any water, in a lawful manner, under the provisions of any act of the legislature before the enactment of Chapter 171, General Laws, Acts of the 33rd Legislature, 1913, as amended, and who has filed with the State Board of Water Engineers a record of his appropriation as required by the 1913 act, as amended; or a person who makes or has made beneficial use of any water within the limitations of a permit lawfully issued by the Texas Water Rights Commission or one of its predecessors. (R.S. Art. 7473 (part).)

§ 5.003. Streams that Form Boundaries Included

This chapter applies to all streams or other sources of water supply lying upon or forming a part of the boundaries of this state. (R.S. Art. 7618.)

§ 5.004. Commission to Receive Certified Copies of Judgments, Etc.

When any court of record renders a judgment, decree, or order affecting the title to any water right, claim, appropriation, or irrigation facility, or affecting any matter over which the commission is given supervision by law, the clerk of the court shall immediately transmit to the commission a certified copy of the judgment, decree, or order. (R.S. Art. 7513.)

§ 5.005. Applicability to Works under Federal Reclamation Act

This chapter applies to the construction, maintenance, and operation of irrigation works constructed in this state under the Federal Reclamation Act, as amended (43 U.S.C. Sec. 371 et seq.), to the extent that this chapter is not inconsistent with the federal act or the regulations made under that act by the secretary of the interior. (R.S. Art. 7588.)

[Sections 5.006 to 5.020 reserved for expansion]

SUBCHAPTER B. RIGHTS IN STATE WATER

Section 5.021. State Water

(a) The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state is the property of the state.

(b) Water which is imported from any source outside the boundaries of the state for use in the state and which is transported through the beds and banks of any navigable stream within the state or by utilizing any facilities owned or operated by the state is the property of the state. (R.S. Art. 7467, Subsec. (a) (part), (b), as amended.)

§ 5.022. Acquisition of Right to Use State Water

The right to the use of state water may be acquired by appropriation in the manner and for the purposes provided in this chapter. When the right to use state water is lawfully acquired, it may be taken or diverted from its natural channel. (R.S. Art. 7467, Subsec. (a) (part), as amended.)

§ 5.023. Purposes for which Water May Be Appropriated

(a) State water may be appropriated, stored, or diverted for:

- (1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;
- (2) industrial uses, being processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;
- (3) irrigation;
- (4) mining and recovery of minerals;
- (5) hydroelectric power;
- (6) navigation;
- (7) recreation and pleasure;
- (8) stock raising;
- (9) public parks; and
- (10) game preserves. (R.S. Art. 7470 (part), as amended; R.S. Art. 7468 (part), as amended.)

(b) State water also may be stored or diverted for any other beneficial use. (R.S. Art. 7468 (part), as amended.)

(c) Unappropriated storm water and floodwater may be appropriated to recharge underground freshwater bearing sands and aquifers in the

portion of the Edwards underground reservoir located within Kinney, Uvalde, Medina, Bexar, Comal, and Hays counties if it can be established by expert testimony that an unreasonable loss of state water will not occur and that the water can be withdrawn at a later time for application to a beneficial use. The normal or ordinary flow of a stream or watercourse may never be appropriated, diverted, or used by a permittee for this recharge purpose. (R.S. Art. 7470 (part), as amended.)

(d) When it is put or allowed to sink into the ground, water appropriated under Subsection (b) of this section loses its character and classification as storm water or floodwater and is considered percolating groundwater. (R.S. Art. 7470 (part), as amended.)

(e) The amount of water appropriated for each purpose mentioned in this section shall be specifically appropriated for that purpose, subject to the preferences prescribed in Section 5.024 of this code. (R.S. Art. 7470 (part), as amended.)

(f) The water of any arm, inlet, or bay of the Gulf of Mexico may be changed from salt water to sweet or fresh water and held or stored by dams, dikes, or other structures, and may be taken or diverted for any purpose authorized by this chapter. (R.S. Art. 7468 (part).)

§ 5.024. Appropriation: Preferences

In order to conserve and properly utilize state water, the public welfare requires not only recognition of beneficial uses but also a constructive public policy regarding the preferences between these uses; and it is therefore declared to be the public policy of this state that, in appropriating state water, preference shall be given to the following uses in the order named:

(1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;

(2) industrial uses, being processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;

(3) irrigation;

(4) mining and recovery of minerals;

(5) hydroelectric power;

(6) navigation;

(7) recreation and pleasure; and

(8) other beneficial uses. (R.S. Art. 7471, as amended.)

§ 5.025. Scope of Appropriative Right

A right to use state water under a permit or a certified filing is limited not only to the amount specifically appropriated but also to the amount which is being or can be beneficially used for the purposes specified in the appropriation, and all water not so used is considered not appropriated. (R.S. Art. 7543; Art. 7542, sen. 2.)

§ 5.026. Perfection of an Appropriation

No right to appropriate water is perfected unless the water has been beneficially used for a purpose stated in the original declaration of intention to appropriate water or stated in a permit issued by the commission or one of its predecessors. (R.S. Art. 7473 (part).)

§ 5.027. Rights between Appropriators

As between appropriators, the first in time is the first in right. (R.S. Art. 7472 (part), as amended.)

§ 5.028. Exception

Any appropriation made after May 17, 1931, for any purpose other than domestic or municipal use, is subject to the right of any city or town to

make further appropriations of the water for domestic or municipal use without paying for the water. However, this section does not apply to any stream which constitutes or defines the international boundary between the United States of America and the Republic of Mexico. (R.S. Art. 7472 (part), as amended; 42nd Legis., Ch. 128, Sec. 6.)

§ 5.029. Title to Appropriation by Limitation

When an appropriator from a source of water supply has used water under the terms of a certified filing or a permit for a period of three years, he acquires title to his appropriation by limitation against any other claimant of water from the same source of water supply and against any riparian owner on the same source of water supply. (R.S. Art. 7592.)

§ 5.030. Forfeiture of Appropriation

If any lawful appropriation or use of state water is wilfully abandoned during any three successive years, the right to use the water is forfeited and the water is again subject to appropriation. (R.S. Art. 7544.)

§ 5.031. Annual Report

(a) Not later than March 1 of every year, every person who takes water during the preceding calendar year from a stream or reservoir shall submit a written report to the commission on a form prescribed by the commission. The report shall contain all information required by the commission to aid in administering the water law and in making inventory of the state's water resources. However, with the exception of public utilities and political subdivisions which furnish water for municipal uses, no report is required of persons who take water solely for domestic or livestock purposes. (R.S. Art. 7612, as amended.)

(b) A person who fails to file an annual report with the commission as required by this section is liable to a penalty of \$25, plus \$1 per day for each day he fails to file the statement after March 1. However, the maximum penalty under this section is \$150. The state may sue to recover the penalty. (39th Legis., Ch. 136, Sec. 6, as amended.)

§ 5.032. Records

(a) A person who owns and operates a system of waterworks used for a purpose authorized by this code shall keep a detailed record of daily operations so that the quantity of water taken or diverted each calendar year can be determined.

(b) If the water is used for irrigation, the record must show the number of acres irrigated, the character of the crops grown, and the yield per acre. No survey is required to determine the exact number of acres irrigated. (R.S. Art. 7611.)

§ 5.033. Eminent Domain

The right to take water necessary for domestic and municipal supply purposes is primary and fundamental, and the right to recover from other uses water which is essential to domestic and municipal supply purposes is paramount and unquestioned in the policy of the state. All political subdivisions of the state and constitutional governmental agencies exercising delegated legislative powers have the power of eminent domain, to be exercised as provided by law, for domestic, municipal, and manufacturing uses, and for other purposes authorized by this code, including the irrigation of lands for all requirements of agricultural employment. (42nd Legis., Ch. 128, Sec. 3.)

§ 5.034. Reservoir Site: Land and Rights-of-Way

An appropriator who is authorized to construct a dam or reservoir is granted the right-of-way, not to exceed 100 feet wide, and the necessary area for the site, over any public school land, university land, or asylum land of this state, and the use of the rock, gravel, and timber on the site and right-of-way for construction purposes, after paying compensation as determined by the commission. An appropriator may acquire the reservoir site and rights-of-way over private land by contract. (R.S. Art. 7582.)

§ 5.035. Condemnation of Private Property

(a) An appropriator may obtain rights-of-way over private land and may obtain the land necessary for pumping plants, intakes, headgates, and storage reservoirs by condemnation.

(b) The party obtaining private property by condemnation shall cause damages to be assessed and paid for as provided by the statutes of this state relating to eminent domain.

(c) If the party exercising the power granted by this section is not a corporation, district, city, or town, he shall apply to the commission for the condemnation.

(d) The commission shall investigate the proposed condemnation. After its investigation the commission may give notice to the party owning the land proposed to be condemned and hold a hearing on the proposed condemnation.

(e) If after a hearing the commission determines that the condemnation is necessary, the commission may institute condemnation proceedings in the name of the State of Texas for the use and benefit of the party who applied for the condemnation and all others similarly situated.

(f) The parties at whose instance a condemnation suit is instituted shall pay the costs of the suit and condemnation in proportion to the benefits received by each party as fixed by the commission. Before using any of the condemned rights or property, a party receiving the rights or property shall pay the amount of costs fixed by the commission.

(g) If, after the costs of the condemnation proceedings have been paid, a party seeks to take the benefits of the condemnation proceedings, he shall apply to the commission for the benefits. The commission may grant the application and fix the fees and charges to be paid by the applicant. (R.S. Art. 7583, as amended.)

§ 5.036. Conserved or Stored Water: Supply Contract

(a) A person, association of persons, corporation, or water improvement or irrigation district having in possession and control any storm water, floodwater, or rainwater that is conserved or stored as authorized by this chapter may contract to supply the water to any person, association of persons, corporation, or water improvement or irrigation district having the right to acquire use of the water.

(b) The price and terms of the contract shall be just and reasonable and without discrimination; and the contract is subject to the same revision and control as provided in this code for other water rates and charges. If any person uses the stored or conserved water without first entering into a contract with the party that conserved or stored it, the user shall pay for the use at a rate determined by the commission to be just and reasonable, subject to court review as in other cases. (R.S. Art. 7547.)

§ 5.037. Water Suppliers: Rules and Regulations

Every person, association of persons, corporation, or irrigation district conserving or supplying water for any of the purposes authorized by this chapter shall make and publish reasonable rules and regulations relating to:

- (1) the method of supply;
- (2) the use and distribution of the water; and
- (3) the procedure for applying for the water and paying for it.

(R.S. Art. 7570.)

§ 5.038. Rights of Owners of Land Adjoining Canal, Etc.

(a) A person who owns or holds a possessory interest in land adjoining or contiguous to a canal, ditch, flume, lateral, dam, reservoir, or lake, constructed and maintained under the provisions of this chapter, and who has secured a right to the use of water in the canal, ditch, flume, lateral, dam, reservoir, or lake, is entitled to be supplied from the canal, ditch, flume, lateral, dam, reservoir, or lake with water for irrigation of the land, and for mining, milling, manufacturing, development of power, and stock raising, in accordance with the terms of his contract. (R.S. Art. 7555.)

(b) If the person, association of persons, or corporation owning or controlling the water, and the person who owns or holds a possessory interest in the adjoining land cannot agree on a price for a permanent water right, or for the use of enough water for irrigation of the person's land, or for mining, milling, manufacturing, development of power, or stock raising, then the party owning or controlling the water, if he has any water not contracted to others, shall furnish the water necessary for these purposes at reasonable and nondiscriminatory prices. (R.S. Art. 7556.)

§ 5.039. Distribution of Water During Shortage

(a) If a shortage of water in a water supply results from drouth, accident, or other cause, the water to be distributed shall be divided among all customers pro rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.

(b) Nothing in Subsection (a) of this section precludes the person, association of persons, or corporation owning or controlling the water from supplying water to a person who has a prior vested right to the water under the laws of this state. (R.S. Arts. 7557, 7558.)

§ 5.040. Permanent Water Right

(a) A permanent water right is an easement and passes with the title to land.

(b) A written instrument conveying a permanent water right may be recorded in the same manner as any other instrument relating to a conveyance of land.

(c) The owner of a permanent water right is entitled to use water according to the terms of his contract. If there is no contract, the owner is entitled to use water at a just, reasonable, and nondiscriminatory price. (R.S. Art. 7559.)

§ 5.041. Denial of Water: Complaint

(a) Any person entitled to receive or use water from any canal, ditch, flume, lateral, dam, reservoir, or lake, or from any conserved or stored supply may present to the commission a written petition showing:

- (1) that he is entitled to receive or use the water;
- (2) that he is willing and able to pay a just and reasonable price for the water;

(3) that the party owning or controlling the water supply has water not contracted to others and available for the petitioner's use; and

(4) that the party owning or controlling the water supply fails or refuses to supply the available water to the petitioner, or that the price or rental demanded for the available water is not reasonable and just, or is discriminatory.

(b) If the petition is accompanied by a deposit of \$25, the commission shall make a preliminary investigation of the complaint and determine whether or not there is probable ground for the complaint. (R.S. Art. 7560, sen. 1.)

(c) If, after preliminary investigation, the commission determines that probable grounds exist for the complaint, the commission shall enter an order setting a time and place for a hearing on the petition.

(d) The commission may require the complainant to make an additional deposit or execute a bond satisfactory to the commission, in an amount fixed by the commission, conditioned on the payment of all costs of the proceeding.

(e) At least 20 days before the date set for the hearing, the commission shall transmit by registered mail a certified copy of the petition and a certified copy of the hearing order to the person against whom the complaint is made. (R.S. Art. 7561.)

(f) The commission shall hold a hearing on the complaint at the time and place stated in the order. It may hear evidence orally or by affidavit in support of or against the complaint, and it may hear arguments. On completion of the hearing, the commission shall render a written decision. (R.S. Art. 7562.)

(g) If, after its preliminary investigation, the commission determines that no probable ground exists for the complaint, the commission shall dismiss the complaint. The commission may either return the deposit or pay it into the state treasury. (R.S. Art. 7560, sen. 2.)

§ 5.042. Delivering Water Down Banks and Beds

Under rules prescribed by the commission, a person, association of persons, corporation, or water improvement or irrigation district supplying stored or conserved water under contract as provided in this chapter may use the bank and bed of any flowing natural stream in the state to convey the water from the place of storage to the place of use, or to the diversion plant of the appropriator. The commission shall prescribe rules for this purpose. (R.S. Art. 7548, as amended.)

§ 5.043. Recordation of Conveyance of Irrigation Work

(a) A conveyance of a ditch, canal, or reservoir, or other irrigation work, or an interest in such an irrigation work must be executed and acknowledged in the same manner as a conveyance of real estate. Such a conveyance must be recorded in the deed records of the county in which the ditch, canal, or reservoir is located.

(b) If a conveyance of property covered by Subsection (a) of this section is not made in the prescribed manner, it is null and void against subsequent purchasers in good faith and for valuable consideration. (R.S. Art. 7571.)

§ 5.044. Roads and Highways

(a) An appropriator has the right to construct ditches, canals, or other conveyances along or across all roads and highways necessary for the construction of waterworks. Bridges, culverts, or siphons shall be constructed at all road and highway crossings as necessary to prevent any impairment of the uses of the road or highway.

(b) If any public road, highway, or public bridge is located on the ground necessary for a damsite, reservoir, or lake, the commissioners court shall change the road and remove the bridge so that it does not interfere with the construction of the proposed dam, reservoir, or lake. The party desiring to construct the dam, reservoir, or lake shall pay the expense of moving the bridge or roadway. (R.S. Art. 7585.)

§ 5.045. Ditches and Canals

An appropriator is entitled to construct ditches and canals along or across any stream of water. (R.S. Art. 7586.)

§ 5.046. Return Unused Water

A person who takes or diverts water from a running stream for the purposes authorized by this code shall conduct surplus water back to the stream from which it was taken if the water can be returned by gravity flow and it is reasonably practicable to do so. (R.S. Art. 7579.)

§ 5.047. Failure to Fence

If a person, association of persons, corporation, or water improvement or irrigation district that owns or controls a ditch, canal, reservoir, dam, or lake does not keep it securely fenced, there is no cause of action against the owner of livestock that trespass. (R.S. Art. 7593.)

§ 5.048. Cost of Maintaining Irrigation Ditch

(a) If an irrigation ditch is owned or used by two or more persons, mutual or cooperative companies, or corporations, each party who has an interest in the ditch shall pay his proportionate share of the cost of operating and maintaining the ditch.

(b) If a person who owns a joint interest in a ditch refuses to do or to pay for his proportionate share of the work that is reasonably necessary for the proper maintenance and operation of the ditch, the other owners may, after giving him 10 days' written notice, proceed themselves to do his share of the necessary work and recover from him the reasonable expense or value of the work or labor performed. The action for the cost of the work may be brought in any court having jurisdiction over the amount in controversy. (R.S. Art. 7578.)

§ 5.049. Examination and Survey

A person may make any necessary examination and survey in order to select the most advantageous sites for a reservoir and rights-of-way to be used for any of the purposes authorized by this chapter; and for this purpose a person may enter the land or water of any other person. (R.S. Art. 7580.)

§ 5.050. Tidewater Gates, Etc.

An appropriator authorized to take water for irrigation may, subject to the laws of the United States and the regulations made under its authority, construct gates, or breakwaters, dams, or dikes with gates, in waters wholly in this state, as necessary to prevent pollution of the fresh water of any river, bayou, or stream due to the ebb and flow of the tides of the Gulf of Mexico.

(b) The work shall be done in such a manner that navigation of vessels on the stream is not obstructed; and where any gate is used, the appropriator shall at all times keep a competent person at the gate to allow free navigation.

(c) A dam, dike, or breakwater constructed under this section may not be placed at any point except where Gulf tides ebb and flow, and may not

be constructed so as to obstruct the flow of fresh water to any appropriator or riparian owner downstream. (R.S. Art. 7551.)

§ 5.051. Irrigation: Lien on Crops

(a) A person who constructs a ditch, canal, dam, lake, or reservoir for the purpose of irrigation and who leases, rents, furnishes, or supplies water to any person for irrigation, with or without a contract, has a preference lien superior to every other lien on the irrigated crops. However, when any irrigation district or conservation and reclamation district obtains a water supply under contract with the United States, the board of directors of the district, by resolution entered in its minutes, with the consent of the secretary of the interior, may waive the preference lien in whole or in part. (R.S. Art. 7596, as amended.)

(b) To enforce the lien, the lienholder has all the rights and remedies prescribed by Articles 5222-5239, Revised Civil Statutes of Texas, 1925. (R.S. Art. 7597.)

§ 5.052. Activities under the Federal Reclamation Act

The Secretary of the Interior of the United States is authorized to conduct any activities in this state necessary to perform his duties under the Federal Reclamation Act, as amended (43 U.S.C. Sec. 371 et seq.). (R.S. Art. 7587.)

[Sections 5.053 to 5.080 reserved for expansion]

SUBCHAPTER C. UNLAWFUL USE, DIVERSION, WASTE, ETC.

Section 5.081. Unlawful Use of State Water

(a) No person may wilfully take, divert, or appropriate any state water for any purpose without first complying with all applicable requirements of this chapter.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both.

(c) A person commits a separate offense each day he continues to take, divert, or appropriate water in violation of this section.

(d) Possession of state water when the right to its use has not been acquired according to the provisions of this chapter is *prima facie* evidence of a violation of this section. (R.S. Art. 7520.)

§ 5.082. Unlawful Use: Civil Penalty

(a) A person who wilfully takes, diverts, or appropriates state water without complying with the applicable requirements of this chapter is also liable to a penalty of not to exceed \$100 per day for each day he continues the taking, diversion, or appropriation. (R.S. Art. 7521.)

(b) The state may recover the penalties prescribed in Subsection (a) of this section by suit brought for that purpose in a court of competent jurisdiction. (R.S. Art. 7522.)

(c) An action to collect the penalty provided in this section must be brought within one year from the date of the alleged violation.

Amended by Acts 1971, 62nd Leg., p. 2636, ch. 867, § 1, eff. June 9, 1971.

§ 5.083. Other Unlawful Taking

(a) No person may wilfully open, close, change, or interfere with any headgate or water box without lawful authority.

(b) No person may wilfully use water or conduct water through his ditch or upon his land unless he is entitled to do so.

(c) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000 or by confinement in the county jail for not more than six months.

(d) The possession or use of water on his land by a person not entitled to the water by the provisions of this code is prima facie evidence of a violation of this section. (R.S. Art. 7575.)

§ 5.084. Sale of Permanent Water Right Without a Permit

(a) No person may sell or offer to sell a permanent water right unless he has perfected a right to appropriate state water by a certified filing, or unless he has obtained a permit from the commission, authorizing the use of the water for the purposes for which the permanent water right is conveyed.

(b) A person who violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both. (R.S. Art. 7554.)

§ 5.085. Interwatershed Transfers

(a) No person may take or divert any of the water of the ordinary flow, underflow, or storm flow of any stream, watercourse, or watershed in this state into any other natural stream, watercourse, or watershed to the prejudice of any person or property situated within the watershed from which the water is proposed to be taken or diverted. (R.S. Art. 7589.)

(b) No person may transfer water from one watershed to another without first applying for and receiving a permit from the commission to do so. Before issuing such a permit, the commission shall hold a hearing to determine the rights that might be affected by the transfer. The commission shall give notice and hold the hearing in the manner prescribed by its rules. (R.S. Art. 7590, as amended.)

(c) A person who takes or diverts water in violation of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$500 or by confinement in the county jail for not more than six months.

(d) A person commits a separate offense each day he continues to take or divert water in violation of this section. (R.S. Art. 7591.)

§ 5.086. Overflow Caused by Diversion of Water

(a) No person may divert or impound the natural flow of surface waters in this state, or permit a diversion or impounding by him to continue, in a manner that damages the property of another by the overflow of the water diverted or impounded.

(b) A person whose property is injured by an overflow of water caused by an unlawful diversion or impounding has remedies at law and in equity and may recover damages occasioned by the overflow.

(c) The prohibition of Subsection (a) of this section does not in any way affect the construction and maintenance of levees and other improvements to control floods, overflows, and freshets in rivers, creeks, and streams, or the construction of canals for conveying water for irrigation or other purposes authorized by this code. However, this subsection does not authorize any person to construct a canal, lateral canal, or ditch that obstructs a river, creek, bayou, gully, slough, ditch, or other well-defined natural drainage.

(d) Where gullies or sloughs have cut away or intersected the banks of a river or creek to allow floodwaters from the river or creek to overflow the land nearby, the owner of the flooded land may fill the mouth of the gullies or sloughs up to the height of the adjoining banks of the river or creek without liability to other property owners. (40th Legis., Ch. 56, Sec. 1, as amended.)

§ 5.087. Diversion of Water on International Stream

(a) When storm water or floodwater is released from a dam or reservoir on an international stream, and the water is designated for use or storage downstream by a specified user who is legally entitled to receive it, no other person may store, divert, appropriate, or use the water, or interfere with its passage downstream. (55th Legis., Ch. 241, Sec. 1, sen. 1.)

(b) The commission may make and enforce regulations and orders to implement the provisions of this section, including regulations and orders designed to:

(1) establish an orderly system for water releases and diversions, in order to protect vested rights and to avoid the loss of released water;

(2) prescribe the time that releases of water may begin and end;

(3) determine the proportionate quantities of the released water in transit and the water that would have been flowing in the stream without the addition of the released water;

(4) require each owner or operator of a dam or reservoir on the stream between the point of release and the point of destination to allow free passage of the released water in transit; and

(5) establish other requirements the commission considers necessary to effectuate the purposes of this section. (55th Legis., Ch. 241, Sec. 1, sen. 2, 3.)

(c) Orders made by the commission to effectuate its regulations under this section need not be published, but the commission shall transmit a copy of every such order by certified mail to each diverter of water and to each reservoir owner on the stream between the point of release and the point of destination of the released water, as shown by the records of the commission. (55th Legis., Ch. 241, Sec. 1, sen. 4, 5.)

(d) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both. A person commits a separate offense each day he continues to violate this section. (55th Legis., Ch. 241, Sec. 2.)

§ 5.088. Destruction of Waterworks

(a) No person may wilfully cut, dig, break down, destroy, or injure, or open a gate, bank, embankment, or side of any ditch, canal, reservoir, flume, tunnel or feeder, pump or machinery, building, structure, or other work which is the property of another, or in which another owns an interest, or which is lawfully possessed or being used by another, and which is used for irrigation, milling, mining, manufacturing, the development of power, domestic purposes, or stock raising, with intent to:

(1) maliciously injure a person, association, corporation, water improvement or irrigation district;

(2) gain advantage for himself; or

(3) take or steal water, or cause water to run out or waste out of the ditch, canal, or reservoir, feeder, or flume for his own advantage, or to the injury of a person lawfully entitled to the use of the water

or the use or management of the ditch, canal, tunnel, reservoir, feeder, flume, machine, structure, or other irrigation work.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000 or by confinement in the county jail for not more than two years or by both. (R.S. Art. 7576.)

§ 5.089. Johnson Grass or Russian Thistle

(a) No person who owns, leases, or operates a ditch, canal, or reservoir, or who cultivates land abutting a reservoir, ditch, flume, canal, wasteway, or lateral, may permit Johnson grass or Russian thistle to go to seed on the waterway within 10 feet of the high-water line, if the waterway crosses or lies on the land owned or controlled by him.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$500 or by confinement in the county jail for not less than 30 days nor more than six months or by both. (R.S. Art. 7598.)

(c) The provisions of this section are not applicable in Tom Green, Sterling, Irion, Schleicher, McCullough, Brewster, Menard, Maverick, Kinney, Val Verde, and San Saba counties. (R.S. Art. 7599.)

§ 5.090. Polluting and Littering

(a) No person may deposit in any canal, lateral, reservoir, or lake, used for a purpose named in this chapter, the carcass of any dead animal, tin cans, discarded buckets or pails, garbage, ashes, baling or barbed wire, earth, offal, or refuse of any character, or any other article which might pollute the water or obstruct the flow of a canal or similar structure.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$100 or by confinement in the county jail for not more than six months or by both. (P.C. Art. 1362.)

§ 5.091. Interference with Delivery of Water under Contract

(a) No person may wilfully take, divert, appropriate, or interfere with the delivery of conserved or stored water under Section 5.042 of this code.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both.

(c) A person commits a separate offense each day he continues to violate this section. (R.S. Art. 7549.)

(d) On the petition of any interested party, the district court of any county through which the water may pass shall enjoin any actual or threatened act prohibited by this section. (R.S. Art. 7550.)

§ 5.092. Wasteful Use of Water

A person who owns or has a possessory right to land contiguous to a canal or irrigation system and who acquires the right by contract to use the water from it commits waste if he:

- (1) permits the excessive or wasteful use of water by any of his agents or employees; or
- (2) permits the water to be applied to anything but a beneficial use. (R.S. Art. 7606 (part).)

§ 5.093. Abatement of Waste as Public Nuisance

(a) A person who permits an unreasonable loss of water through faulty design or negligent operation of any waterworks using water for a

purpose named in this chapter commits waste; and the commission may declare the works causing the waste to be a public nuisance. The commission may take the necessary action to abate the nuisance. Also, any person who may be injured by the waste may sue in the district court having jurisdiction over the works causing the waste to have the operation of the works abated as a public nuisance. (R.S. Arts. 7607, 7610.)

(b) In case of a wasteful use of water prohibited by Section 5.092 of this code, the commission shall declare the use to be a public nuisance and shall act to abate the nuisance by directing the person supplying the water to close the water gates of the person wasting the water and to keep them closed until the commission determines that the unlawful use of water is corrected. (R.S. Art. 7606 (part).)

§ 5.094. Penalty for Use of Works Declared Public Nuisance

(a) No person may operate or attempt to operate any waterworks or irrigation system or use any water under contract with any waterworks or irrigation system that has been previously declared to be a public nuisance.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,000 or by confinement in the county jail for not more than one year or by both. (R.S. Art. 7608.)

§ 5.095. Penalty for Waste

A person who wilfully or knowingly commits waste as provided in Section 5.092 or 5.093(a) of this code is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 or by confinement in the county jail for not more than 90 days or by both. (R.S. Art. 7613.)

§ 5.096. Obstruction of Navigable Streams

(a) No person may obstruct the navigation of any stream which can be navigated by steamboats, keelboats, or flatboats, by cutting and felling trees or by building on or across the stream any dike, mill dam, bridge, or other obstruction.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$500. (P.C. Art. 783.)

[Sections 5.097 to 5.120 reserved for expansion]

SUBCHAPTER D. PERMITS TO USE STATE WATER

Section 5.121. Permit Required

Except as provided in Section 5.140 of this code, no person may appropriate any state water, or begin construction of any work designed for the storage, taking, or diversion of water, without first obtaining a permit from the commission to make the appropriation. (R.S. Art. 7492, as amended.)

§ 5.122. Permit Preferences

The commission shall give preference to applications in the order declared in Section 5.024 of this code and to applications which will effec-

uate the maximum utilization of water and are calculated to prevent the escape of water without contribution to a beneficial public service. (42nd Legis., Ch. 128, Sec. 4 (part).)

§ 5.123. Application for Permit

- (a) An application to appropriate unappropriated state water must:
- (1) be in writing and sworn to;
 - (2) contain the name and post-office address of the applicant;
 - (3) identify the source of water supply;
 - (4) state the nature and purposes of the proposed use and the amount of water to be used for each purpose;
 - (5) state the location and describe the proposed facilities;
 - (6) state the time within which the proposed construction is to begin; and
 - (7) state the time required for the application of water to the proposed use.

- (b) If the proposed use is irrigation, the application must also contain:
- (1) a description of the land proposed to be irrigated; and
 - (2) an estimate of the total acreage to be irrigated.

(c) If the application is for a seasonal permit, under the provisions of Section 5.136 of this code, the application must also state the months or seasons of the year the water is to be used.

(d) If the application is for a temporary permit, under the provisions of Section 5.137 of this code, the application must also state the period of the proposed temporary use. (R.S. Art. 7493, as amended.)

§ 5.124. Map or Plat

(a) The application must be accompanied by a map or plat drawn on tracing linen, on a scale not less than one inch equals 2,000 feet.

- (b) The map or plat must show substantially:
- (1) the location and extent of the proposed facilities;
 - (2) the location of the headgate, intake, pumping plant, or point of diversion by course and distance from permanent natural objects or landmarks;
 - (3) the location of the main ditch or canal and the locations of the laterals or branches of the main ditch or canal;
 - (4) the course of the water supply;
 - (5) the position, waterline, and area of all lakes, reservoirs, or basins intended to be used or created;
 - (6) the point of intersection of the proposed facilities with any other ditch, canal, lateral, lake, or reservoir; and
 - (7) the location of any ditch, canal, lateral, reservoir, lake, dam, or other similar facility already existing in the area, drawn in a different colored ink than that used to represent the proposed facilities, and the name of the owner of the existing facility.

- (c) The map or plat must also contain:
- (1) the name of the proposed facility or enterprise;
 - (2) the name of the applicant; and
 - (3) a certificate of the surveyor, giving the date of his survey, his name and post-office address, and the date of the application which the certificate accompanies. (R.S. Art. 7494.)

§ 5.125. Commission Requirements

(a) If the proposed taking or diversion of water for irrigation exceeds nine cubic feet per second, the commission may require additional information as prescribed by this section.

(b) The commission may require a continuous longitudinal profile, cross-sections of the proposed channel, and the detail plans of any proposed structure, on any scales and with any definition, the commission considers necessary or expedient.

(c) If the application proposes construction of a dam greater than six feet in height, either for diversion or storage, the commission may also require filing a copy of all plans and specifications and a copy of the engineer's field notes of any survey of the lake or reservoir. No work on the project shall proceed until approval of the plans is obtained.

(d) If the applicant is a corporation, the commission may require filing a certified copy of its articles of incorporation, a statement of the names and addresses of its directors and officers, and a statement of the amount of its authorized capital stock and its paid-up capital stock.

(e) If the applicant is not a corporation, the commission may require filing a sworn statement showing the name and address of each person interested in the appropriation, the extent of his interest, and his financial condition. (R.S. Art. 7500.)

§ 5.126. Additional Requirements: Drainage Plans

If the commission believes that the efficient operation of any existing or proposed irrigation system may be adversely affected by lack of adequate drainage facilities incident to the work proposed to be done by an applicant, the commission may require the applicant to submit plans for drainage adequate to guard against any injury which the proposed work may entail. (R.S. Art. 7502.)

§ 5.127. Payment of Fee

If the applicant is not exempted from payment of the filing fee under Section 6.069 of this code, he shall pay the filing fee prescribed by Section 6.068(b) of this code at the time he files the application. The commission shall not record, file, or consider the application until the fee is paid. (R.S. Art. 7501.)

§ 5.128. Review of Application; Amendment

The commission shall determine whether the application, maps, and other materials comply with the requirements of this chapter and the regulations of the commission. The commission may require amendment of the application, maps, or other materials to achieve necessary compliance. (R.S. Art. 7504.)

§ 5.129. Recording Applications

(a) The commission shall record all applications for appropriations in a well-bound book kept for that purpose in the commission's office.

(b) The commission shall index the applications alphabetically in the name of:

- (1) the applicant;
- (2) the stream or source from which the appropriation is sought to be made; and
- (3) the county in which the appropriation is sought to be made.

(R.S. Art. 7505.)

§ 5.130. Examination and Denial of Application Without Hearing

(a) The commission shall make a preliminary examination of the application and, if it appears that there is no unappropriated water in the source of supply or that the proposed appropriation should not be allowed for other reasons, the commission may deny the application.

(b) If the commission denies the application under this section and the applicant elects not to proceed further, the commission may return to the applicant any part of the fee submitted with the application. (R.S. Art. 7503.)

§ 5.131. Notice of Hearing

(a) The commission shall give notice of the hearing on the application as prescribed by this section.

(b) In the notice the commission shall:

- (1) state the name and address of the applicant;
- (2) state the date the application was filed;
- (3) state the purpose and extent of the proposed appropriation of water;
- (4) identify the source of supply and the place where the water is to be stored or taken or diverted from the source of supply;
- (5) specify the time and place of the hearing; and
- (6) give any additional information the commission considers necessary.

(c) If the proposed use is for irrigation, the commission shall include in the notice a general description of the location and area of the land to be irrigated. (R.S. Art. 7508.)

(d) The notice shall be published once a week for two consecutive weeks before the date stated in the notice for the hearing in some newspaper having a general circulation in the section of the state where the source of water is located.

(e) The commission shall also mail a copy of the notice by first-class mail, postage prepaid, to each claimant or appropriator of water from the source of water supply, the record of whose claim or appropriation has been filed in the office of the commission. The notice shall also be mailed by first-class mail, postage prepaid, to all navigation districts within the watershed concerned. The inadvertent failure of the commission to mail a notice to a navigation district which is not a claimant or appropriator of water does not prevent the hearing on the application.

(f) The notice shall be mailed and first published not less than 20 days before the date set for the hearing. (R.S. Art. 7509, as amended.)

§ 5.132. Hearing

At the time and place stated in the notice, the commission shall hold a hearing on the application. Any person may appear at the hearing, in person or by attorney, or may enter his appearance in writing. Any person who appears may present objection to the issuance of the permit. The commission may receive evidence, orally or by affidavit, in support of or in opposition to the issuance of the permit, and it may hear arguments. (R.S. Art. 7510, sen. 1, 2, 3.)

§ 5.133. Action on Application

(a) After the hearing the commission shall make a written decision granting or denying the application. The application may be granted or denied in whole or in part. (R.S. Art. 7510, sen. 4, 5.)

(b) The commission shall grant the application only if:

- (1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;
- (2) unappropriated water is available in the source of supply; and
- (3) the proposed appropriation:
 - (A) contemplates the application of water to any beneficial use;

(B) does not impair existing water rights or vested riparian rights; and

(C) is not detrimental to the public welfare. (R.S. Art. 7506, as amended; R.S. Art. 7507.)

§ 5.134. Issuance of Permit

(a) On approval of an application, the commission shall issue a permit to the applicant. The applicant's right to take and use water is limited to the extent and purposes stated in the permit.

(b) The permit shall be in writing and attested by the seal of the commission, and it shall contain substantially the following information:

- (1) the name of the person to whom the permit is issued;
- (2) the date the permit is issued;
- (3) the date the original application was filed;
- (4) the use or purpose for which the appropriation is to be made;
- (5) the amount or volume of water authorized to be appropriated for each purpose;
- (6) a general description of the source of supply from which the appropriation is proposed to be made;
- (7) the time within which construction or work must begin and the time within which it must be completed; and
- (8) any other information the commission prescribes.

(c) If the appropriation is for irrigation, the commission shall also place in the permit a description and statement of the approximate area of the land to be irrigated. (R.S. Art. 7515, as amended.)

§ 5.135. Recording of Permit

(a) The commission shall transmit the permit by registered mail to the county clerk of the county in which the appropriation is to be made. (R. S. Art. 7516.)

(b) When the county clerk receives the permit and is paid the recording fee (as prescribed by Article 3930, Revised Civil Statutes of Texas, 1925, as amended), he shall file and record the permit in a well-bound book kept for that purpose. He shall index the permit alphabetically in the name of the applicant and of the stream or source of water supply. After he has recorded the permit, the county clerk shall deliver the permit, on demand, to the applicant. (R.S. Art. 7517.)

(c) When the permit is filed in the office of the county clerk, it is constructive notice of:

- (1) the filing of the application;
- (2) the issuance of the permit; and
- (3) all the rights arising under the filing of the application and the issuance of the permit. (R.S. Art. 7518.)

§ 5.136. Seasonal Permits

(a) The commission may issue seasonal permits in the same manner that it issues regular permits. The provisions of this chapter governing issuance of regular permits apply to issuance of seasonal permits.

(b) The right to take, use, or divert water under seasonal permit is limited to the portion or portions of the calendar year stated in the permit.

(c) In a seasonal permit the commission shall specify the conditions necessary to fully protect prior appropriations or vested rights on the stream. (R.S. Art. 7467c, Sec. (1), as amended.)

§ 5.137. Temporary Permits

(a) The commission may issue temporary permits for beneficial purposes to the extent that they do not interfere with or adversely affect

prior appropriations or vested rights on the stream. The provisions of this chapter governing issuance of regular permits apply to issuance of temporary permits.

(b) The commission may prescribe rules governing notice and procedure for the issuance of temporary permits.

(c) As between temporary permits, the one applied for first has priority.

(d) The commission may not issue a temporary permit for a period exceeding three calendar years.

(e) A temporary permit does not vest in its holder a permanent right to the use of water.

(f) A temporary permit expires and shall be cancelled by the commission in accordance with the terms of the permit.

(g) The commission may prescribe by rule the fees to be paid for issuance of temporary permits, but no fee for issuance or extension of a temporary permit shall exceed \$500. (R.S. Art. 7467c, Sec. (2), as amended.)

§ 5.1371. Emergency Permits

(a) As part of its administrative authority, the commission may grant an emergency permit for the diversion and use of water for a period of not more than 30 days if it finds that emergency conditions exist which threaten the public health, safety, and welfare and which override the necessity to comply with established statutory procedures.

(b) An emergency permit may be granted for a period of not more than 30 days and no extension or additional emergency permit may be granted at the expiration of the original permit.

(c) An emergency permit may be granted under this section without the necessity to comply with statutory and other procedures required for granting other permits issued by the commission.

(d) The commission may prescribe rules and regulations and adopt fees which are necessary to carry out the provisions of this section!

(e) An emergency permit does not vest in the permittee any right to the diversion and use of water and shall expire and be cancelled in accordance with its terms. ((H. B. No. 1418)))

Added by Acts 1971, 62nd Leg., p. 1974, ch. 612, Art. 1, § 1, eff. Sept. 1, 1971.

Article 2 of the 1971 act provides in sections 1 to 4:

"Sec. 1. Each section of this Act takes effect only if and when the legislation on which it is based takes effect, but not earlier than September 1, 1971.

"Sec. 2. All provisions of the Code Construction Act (Article 5429b-2, Vernon's Texas Civil Statutes) apply to this Act.

"Sec. 3. This Act is intended as a codification only, and nothing in this Act is intended to effect any substantive change in the law.

"Sec. 4. As each section of this Act takes effect, the Act on which it is based is repealed."

§ 5.138. Permits for Storage for Project Development

The commission may issue permits for storage solely for the purpose of optimum development of projects. The commission may convert these permits to permits for beneficial use if application to have them converted is made to the commission. (R.S. Art. 7477, Sec. 8(a), sen. 2, as amended.)

§ 5.139. Date of Priority

When the commission issues a permit, the priority of the appropriation of water and the claimant's right to use the water dates from the date of filing of the application. (R.S. Art. 7523.)

§ 5.140. Domestic and Livestock Reservoir—Permit Exemption

Without obtaining a permit, a person may construct on his own property a dam or reservoir to impound or contain not more than 200 acre-feet of water for domestic and livestock purposes. (39th Legis., Ch. 136, Sec. 5, subsec. 1, as amended.)

§ 5.141. Domestic and Livestock Reservoir—Use for Other Purposes

(a) The owner of a dam or reservoir exempted under Section 5.140 of this code who desires to use water from the dam or reservoir for purposes other than domestic or livestock use shall obtain a permit to do so. He may obtain a regular permit, a seasonal permit, or a permit for a term of years. He may elect to obtain the permit by proceeding under this section or under the other provisions of this chapter governing issuance of permits. (39th Legis., Ch. 136, Sec. 5, subsec. 2 (part), subsec. 6 (part), subsec. 7, as amended.)

(b) If the applicant elects to proceed under this section, he shall submit to the commission a sworn application, on a form furnished by the commission, containing the following information:

- (1) the name and post-office address of the applicant;
- (2) the nature and purpose of the use and the amount of water to be used annually for each purpose;
- (3) the major watershed and the tributary (named or unnamed) on which the dam or reservoir is located;
- (4) the county in which the dam or reservoir is located;
- (5) the approximate distance and direction from the county seat of the county to the location of the dam or reservoir;
- (6) the survey or the portion of the survey on which the dam or reservoir is located and, to the best of the applicant's knowledge and belief, the distance and direction of the midpoint of the dam or reservoir from a corner of the survey, which information the commission may require to be marked on an aerial photograph or map furnished by the commission;
- (7) the approximate surface area, to the nearest acre, of the reservoir when it is full, and the average depth in feet when it is full; and
- (8) the approximate number of square miles in the drainage area above the dam or reservoir. (39th Legis., Ch. 136, Sec. 5, subsec. 2 (part), as amended.)

(c) If the permit is sought for irrigation, the application must also specify:

- (1) the total number of irrigable acres in the area;
- (2) the number of acres to be irrigated within the area in any one year; and
- (3) the approximate distance and direction of the land to be irrigated from the midpoint of the dam or reservoir. (39th Legis., Ch. 136, Sec. 5, subsec. 2 (part), as amended.)

(d) Before the commission may approve the application and issue the permit, it shall give notice and hold a hearing as prescribed by this section.

(e) In the notice the commission shall:

- (1) state the name and post-office address of the applicant;
- (2) state the date the application was filed;
- (3) state the purpose and extent of the proposed appropriation of water;
- (4) identify the source of supply and the place where the water is stored; and
- (5) specify the time and place of the hearing. (39th Legis., Ch. 136, Sec. 5, subsec. 3, as amended.)

(f) The notice shall be published only once, at least 20 days before the date stated in the notice for the hearing on the application, in a newspaper having general circulation in the county where the dam or reservoir is located. At least 15 days before the date set for the hearing, the commission shall transmit a copy of the notice by first-class mail to each person whose claim or appropriation has been filed with the commission and whose diversion point is downstream from that described in the application. (39th Legis., Ch. 136, Sec. 5, subsec. 4, as amended.)

(g) The applicant shall pay the filing fee prescribed by Section 6.068(b) of this code at the time he files the application. (39th Legis., Ch. 136, Sec. 5, subsec. 5, as amended.)

(h) The commission shall approve the application and issue the permit as applied for, in whole or in part, if it determines that:

- (1) there is unappropriated water in the source of supply;
- (2) the applicant has met the requirements of this section;
- (3) the water is to be used for a beneficial purpose;
- (4) the proposed use is not detrimental to the public welfare or to the welfare of the locality; and
- (5) the proposed use will not impair existing water rights. (39th Legis., Sec. 5, subsec. 6 (part), as amended.)

§ 5.142. Approval for Alterations

All holders of permits and certified filings shall obtain the approval of the commission before making any alterations, enlargements, extensions, or other changes to any reservoir, dam, main canal, or diversion work upon which a permit has been granted or a certified filing recorded. A detailed statement and plans for alterations or changes shall be filed with and approved by the commission before the alterations or changes are made. This section does not apply to the ordinary maintenance or emergency repair of the facility. (R.S. Art. 7495, as amended.)

§ 5.143. When Construction Must Begin

(a) If a person's permit is for appropriation by direct diversion, he shall begin construction of the proposed facilities within 90 days after the date his permit is issued. He shall work diligently and continuously to the completion of the construction. The commission may, by entering an order of record, extend the time for beginning construction for a period not to exceed 12 months after the date the permit was issued. (R.S. Art. 7519, sen. 1 (part).)

(b) If the permit contemplates construction of a storage reservoir, construction shall begin within the time fixed by the commission, not to exceed two years after the date the permit is issued. The commission, by entering an order of record, may extend the time for beginning construction. The commission may fix fees, not to exceed \$1,000, for extending the time to begin construction of reservoirs. (R.S. Arts. 7536, 7537.)

§ 5.144. Forfeitures and Cancellation of Permit for Inaction

(a) If a permittee fails to begin construction within the time specified in Section 5.143 of this code, he forfeits all rights to the permit, subject to notice and hearing as prescribed by this section.

(b) After beginning construction, if the appropriator fails to work diligently and continuously to the completion of the work, the appropriation is subject to cancellation in whole or in part, subject to notice and hearing as prescribed by this section.

(c) If the commission believes that an appropriation or permit should be declared forfeited under this section or any other sections of this

code, it should give the appropriator or permittee 30 days' notice and provide him with an opportunity to be heard.

(d) After the hearing the commission, by entering an order of record, may cancel the appropriation in whole or in part. The commission shall immediately transmit a certified copy of the cancellation order by certified mail to the county clerk of the county in which the permit is recorded. The county clerk shall record the cancellation order.

(e) If a permit has been issued for the use of water, the water is not subject to a new appropriation until the permit has been cancelled in whole or in part as provided by this section.

(f) Except as provided by Subchapter (e) of this chapter, none of the provisions of this code may be construed as intended to impair, cause, or authorize or may impair, cause, or authorize the forfeiture of any rights acquired by any declaration of appropriation or by any permit if the appropriator has begun or begins the work and development contemplated by his declaration of appropriation or permit within the time provided by the law under which the declaration of appropriation was made or the permit was granted and has prosecuted or continues to prosecute it with all reasonable diligence toward completion. (R.S. Arts. 7519 (part), 7474.)

[Sections 5.145 to 5.170 reserved for expansion]

SUBCHAPTER E. CANCELLATION OF PERMITS FOR NONUSE

Section 5.171. Definitions

As used in this subchapter:

(1) "other interested person" means any person, other than a record holder, who is interested in the permit or certified filing, or any person whose interest would be served by the cancellation of the permit or certified filing in whole or in part; and (R.S. Art. 7519a, Sec. 3, as amended.)

(2) "certified filing" means a declaration of appropriation or affidavit that was filed with the State Board of Water Engineers under the provisions of Section 14, Chapter 171, General Laws, Acts of the 33rd Legislature, 1913. (R.S. Art. 7519b, sen. 1, as amended.)

§ 5.172. General Principle

A permit or certified filing is subject to cancellation in whole or in part for 10 years' nonuse as provided by this subchapter. (New.)

§ 5.173. Cancellation in Whole

If no part of the water authorized to be appropriated under a permit or certified filing has been put to beneficial use at any time during the 10-year period immediately preceding the cancellation proceedings authorized by this subchapter, then the appropriation is presumed to have been wilfully abandoned, and the permit or certified filing is subject to cancellation in whole as provided by this subchapter. (R.S. Art. 7519a, Sec. 1, sen. 1, as amended.)

§ 5.174. Commission to Initiate Proceedings

When the commission finds that its records do not show that any water has been beneficially used under a permit or certified filing during the past 10 years, it shall initiate proceedings, terminated by public hearing, to cancel the permit or certified filing. (R.S. Art. 7519a, Sec. 1, sen. 2, as amended.)

§ 5.175. Notice

(a) At least 30 days before the date of the hearing, the commission shall send notice of the hearing to the holder of the permit or certified filing as shown by the records of the commission. Notice shall be sent by certified mail, return receipt requested, to the last address shown by the records of the commission. The commission shall also send notice by regular mail to all other holders of permits and certified filings in the same watershed.

(b) The commission shall also have the notice of the hearing published once a week for two consecutive weeks, at least 30 days before the date of the hearing, in a newspaper published in each county in which diversion of water from the source of supply was authorized or proposed to be made, and in each county in which the water was authorized or proposed to be used, as shown by the records of the commission. If in any such county no newspaper is published, then the notice may be published in a newspaper having general circulation in the county. (R.S. Art. 7519a, Sec. 1, sen. 3 (part), as amended.)

§ 5.176. Hearing

The commission shall hold a hearing and shall give the holder of the permit or certified filing and other interested persons an opportunity to be heard and to present evidence that water has, or has not, been beneficially used for the purposes authorized by the permit or certified filing during the 10-year period. (R.S. Art. 7519a, Sec. 1, sen. 3 (part), as amended.)

§ 5.177. Commission Finding; Action

At the conclusion of the hearing, if the commission finds that no water has been beneficially used for authorized purposes during the 10-year period, the appropriation is deemed to have been wilfully abandoned, and the commission shall cancel the permit or certified filing. (R.S. Art. 7519a, Sec. 1, sen. 4, as amended.)

§ 5.178. Cancellation in Part

If some part of the water authorized to be appropriated under a permit or certified filing has not been put to beneficial use at any time during the 10-year period immediately preceding the cancellation proceedings authorized by this subchapter, then the permit or certified filing is subject to partial cancellation, as provided by this subchapter, to the extent of the 10 years' nonuse. (R.S. Art. 7519a, Sec. 2, sen. 1 (part), as amended.)

§ 5.179. Commission May Initiate Proceedings

When the commission finds that its records do not show proof that some portion of the water has been used during the past 10 years, it may initiate proceedings, terminated by public hearing, to cancel the permit or certified filing in part. (R.S. Art. 7519a, Sec. 2, sen. 2, as amended.)

§ 5.180. Notice

The commission shall give notice of the hearing as provided by Section 5.175 of this code. (R.S. Art. 7519a, Sec. 2, sen. 4 (part), as amended.)

§ 5.181. Hearing

The commission shall hold a hearing and shall give the holder of the permit or certified filing and other interested persons an opportunity to be heard and to present evidence on any matter pertinent to the questions at issue. (R.S. Art. 7519a, Sec. 2, sen. 4 (part), as amended.)

§ 5.182. Commission Finding; Action

(a) At the conclusion of the hearing, the commission shall cancel the permit or certified filing to the extent that it finds that:

(1) any portion of the water appropriated under the permit or certified filing has not been put to an authorized beneficial use during the 10-year period;

(2) the holder has not used reasonable diligence in applying the unused portion of the water to an authorized beneficial use; and

(3) the holder has not been justified in the nonuse or does not then have a bona fide intention of putting the unused water to an authorized beneficial use within a reasonable time after the hearing. (R.S. Art. 7519a, Sec. 2, sen. 5, as amended.)

(b) In determining what constitutes a reasonable time as used in Subsection (a)(3) of this section, the commission shall give consideration to:

(1) the expenditures made or obligations incurred by the holder in connection with the permit or certified filing;

(2) the purpose to which the water is to be applied;

(3) the priority of the purpose; and

(4) the amount of time usually necessary to put water to a beneficial use for the same purpose when diligently developed. (R.S. Art. 7519a, Sec. 2, sen. 3, as amended.)

§ 5.183. Reservoir

If the holder of a permit or certified filing has facilities for the storage of water in a reservoir, the commission shall allow him to retain a water appropriation to the extent of the conservation storage capacity of the reservoir. (R.S. Art. 7519a, Sec. 2, sen. 6, as amended.)

§ 5.184. Municipal Permit

Regardless of other provisions of this subchapter, no portion of a certified filing held by a city, town, village, or municipal water district, authorizing the use of water for municipal purposes, shall be cancelled if water has been put to use under the certified filing for municipal purposes at any time during the 10-year period immediately preceding the institution of cancellation proceedings. (R.S. Art. 7519a, Sec. 2, sen. 7, as amended.)

§ 5.185. Effect of Commission Inaction

Failure of the commission to initiate cancellation proceedings under this subchapter does not validate or improve the status of any permit or certified filing in whole or in part. (R.S. Art. 7519a, Sec. 2, sen. 8, as amended.)

§ 5.186. Subsequent Proceedings on Same Permit

Once cancellation proceedings have been initiated against a particular permit or certified filing and a hearing has been held, the commission shall not initiate further cancellation proceedings against the same permit or certified filing within the five-year period immediately following the date of the hearing. (R.S. Art. 7519a, Sec. 2, sen. 9, as amended.)

[Sections 5.187 to 5.200 reserved for expansion]

SUBCHAPTER F. ARTESIAN WELLS

Section 5.201. Artesian Well Defined

An artesian well is an artificial water well in which the water, when properly cased, will rise by natural pressure above the first impervious stratum below the surface of the ground. (R.S. Art. 7600; P.C. Art. 845.)

§ 5.202. Right to Drill Artesian Well

A person is entitled to drill an artesian well on his own land for domestic purposes or for stock raising without complying with the general provisions of this code regulating the use of water. However, he shall have the well properly and securely cased; and when water is reached containing mineral or other substances injurious to vegetation or agriculture, he shall have the well securely capped, or its flow controlled so as not to injure another person's land, or shall fill the well so as to prevent the water from rising above the first impervious stratum below the surface of the ground. (R.S. Art. 7604.)

§ 5.203. Artesian Well: Drilling Record

(a) A person who drills an artesian well or has one drilled shall keep a complete and accurate record of the depth, thickness, and character of the different strata penetrated and, when the well is completed, shall transmit a copy of the record to the commission by registered mail.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$100. (R.S. Art. 7605; P.C. Art. 848.)

§ 5.204. Report of New Artesian Well

Within one year after an artesian well is drilled, the owner or operator shall transmit to the commission a sworn report stating the result of the drilling operation, the use to which the water will be applied, and the contemplated extent of the use. (R.S. Art. 7614.)

§ 5.205. Wasting Water from Artesian Well

(a) Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the owner's land, it is waste to wilfully cause or knowingly permit the water to run off the owner's land or to percolate through the stratum above which the water is found. (R.S. Art. 7602.)

(b) It is not waste to use water from an artesian well, if suitable, for proper irrigation of trees on a street, road, or highway, or for ornamental ponds or fountains, or for the propagation of fish. (R.S. Art. 7603.)

(c) A person who commits waste as defined in this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 or by confinement in the county jail for not more than 90 days or by both. (P.C. Art. 847.)

§ 5.206. Improperly Cased Well: Nuisance

An artesian well that is not tightly cased, capped, and furnished with mechanical appliances that readily and effectively prevent water from flowing out of the well and running over the surface of the ground about the well, or wasting through the strata through which it passes, is a public nuisance and subject to abatement by the commission. (R.S. Art. 7601.)

§ 5.207. Annual Report

(a) Not later than March 1 of each year, a person who, during any part of the preceding calendar year, owned or operated an artesian well for any purpose other than domestic use, shall file a report to the commission on a form supplied by the commission.

(b) The report shall state:

- (1) the quantity of water which was obtained from the well;
- (2) the nature of the uses to which the water was applied;
- (3) the change in the level of the well's water table; and
- (4) other information required by the commission.

(c) If water from the well was used for irrigation, the report shall also state the acreage and yield of each crop irrigated. (R.S. Art. 7615.)

[Sections 5.208 to 5.300 reserved for expansion]

SUBCHAPTER G. WATER RIGHTS ADJUDICATION ACT**Section 5.301. Short Title**

This subchapter may be cited as the Water Rights Adjudication Act. (60th Legis., Ch. 45, Sec. 1.)

§ 5.302. Declaration of Policy

The conservation and best utilization of the water resources of this state are a public necessity, and it is in the interest of the people of the state to require recordation with the commission of claims of water rights which are presently unrecorded, to limit the exercise of these claims to actual use, and to provide for the adjudication and administration of water rights to the end that the surface-water resources of the state may be put to their greatest beneficial use. Therefore, this subchapter is in furtherance of the public rights, duties, and functions mentioned in this section and in response to the mandate expressed in Article XVI, Section 59, of the Texas Constitution, and is in the exercise of the police powers of the state in the interest of the public welfare. (60th Legis., Ch. 45, Sec. 3.)

§ 5.303. Recordation and Limitation of Certain Water Rights Claims

(a) This section applies to:

- (1) claims of riparian water rights;
- (2) claims under Section 5.141 of this code to impound, divert, or use state water for other than domestic or livestock purposes, for which no permit has been issued;
- (3) claims of water rights under the Irrigation Acts of 1889 and 1895 which were not filed with the State Board of Water Engineers in accordance with the Irrigation Act of 1913, as amended; and
- (4) other claims of water rights except claims under permits or certified filings.

(b) Any claim to which this section applies shall be recognized only if valid under existing law and only to the extent of the maximum actual application of water to beneficial use without waste during any calendar year from 1963 to 1967, inclusive. However, in any case where a claimant of a riparian right has prior to August 28, 1967, commenced or completed the construction of works designed to apply a greater quantity of water to beneficial use, the right shall be recognized to the extent of the maximum amount of water actually applied to beneficial use without waste during any calendar year from 1963 to 1970, inclusive.

(c) On or before September 1, 1969, every person claiming any water right to which this section applies shall file with the commission a statement setting forth:

- (1) the name and address of the claimant;
- (2) the location and the nature of the right claimed;

(3) the stream or watercourse and the river basin in which the right is claimed;

(4) the date of commencement of works;

(5) the dates and volumes of use of water; and

(6) other information the commission may require to show the nature and extent of the claim.

(d) A person who files a statement as provided in this section shall certify under oath that the statements made in support of his claim are true and correct to the best of his knowledge and belief.

(e) A claimant who desires recognition of a right based on use from 1968 to 1970, inclusive, as provided in Subsection (b) of this section, shall file an additional sworn statement on or before July 1, 1971.

(f) The commission shall prescribe forms for the sworn statements required by this section, but use of the commission forms is not mandatory.

(g) On or before January 1, 1968, and June 1, 1969, the commission shall cause notice of the requirements of this section to be published once each week for two consecutive weeks in newspapers having general circulation in each county of the state and by first-class mail to each user of surface water who has filed a report of water use with the commission.

(h) On sworn petition, notice, and hearing as prescribed for applications for permits, and upon finding of extenuating circumstances and good cause shown for failure to timely file, the commission may authorize the filing of the sworn statement or statements required by this section until entry of a preliminary determination of claims of water rights, in accordance with Section 5.309 of this code, which includes the area described in the petition, or, if a preliminary determination has not been entered, until September 1, 1974.

(i) Since the filing of all claims to use public water is necessary for the conservation and best utilization of the water resources of the state, failure to file a sworn statement in substantial compliance with this section extinguishes and bars any claim of water rights to which this section applies.

(j) A sworn statement submitted under this section is binding on the person submitting it and his successors in interest, but is not binding on the commission or any other person in interest.

(k) Nothing in this section shall be construed to recognize any water right which did not exist before August 28, 1967.

(l) This section does not apply to use of water for domestic or livestock purposes. (60th Legis., Ch. 45, Sec. 4.)

§ 5.304. Adjudication of Water Rights

The water rights in any stream or segment of a stream may be adjudicated as provided in this subchapter:

(1) on the commission's own motion;

(2) on petition to the commission signed by 10 or more claimants of water rights from the source of supply; or

(3) on petition of the Texas Water Development Board. (60th Legis., Ch. 45, Sec. 5(a), sen. 1.)

§ 5.305. Investigation

(a) Promptly after a petition is filed under Section 5.304 of this code, the commission shall investigate the facts and conditions necessary to determine whether the adjudication would be in the public interest. If the commission finds that an adjudication would be in the public interest, it shall enter an order to that effect, designating the stream or segment to be adjudicated and directing an investigation to be made of the area involved in order to gather relevant data and information essential to the proper understanding of the claims of water rights involved. The results

of the investigation shall be reduced to writing and made a matter of record in the commission's office.

(b) In connection with the investigation, the commission shall make a map or plat showing with substantial accuracy the course of the stream or segment and the location of reservoirs, diversion works, and places of use, including lands which are being irrigated or have facilities for irrigation. (60th Legis., Ch. 45, Sec. 5(a), sen. 2, 3, 4, 5.)

§ 5.306. Notice of Adjudication

(a) The commission shall prepare a notice of adjudication which describes the stream or segment to be adjudicated and the date by which all claims of water rights in the stream or segment shall be filed with the commission. The date shall not be less than 90 days after the date the notice is issued.

(b) The notice shall be published once a week for two consecutive weeks in one or more newspapers having general circulation in the counties in which the stream or segment is located.

(c) The notice shall also be sent by certified mail to each claimant of water rights whose diversion is within the stream or segment to be adjudicated, to the extent that the claimants can reasonably be ascertained from the records of the commission. (60th Legis., Ch. 45, Sec. 5(b), sen. 1, 2, 3.)

§ 5.307. Filing of Sworn Claims

(a) Every person claiming a water right of any nature, except for domestic or livestock purposes, from the stream or segment under adjudication, shall file a sworn claim with the commission within the time prescribed in the notice of adjudication, including any extensions of the prescribed time, setting forth:

- (1) the name and post-office address of the claimant;
- (2) the location and nature of the right claimed, including a description of any permit or certified filing under which the claim is made;
- (3) the purpose of the use;
- (4) a description of works and irrigated land; and
- (5) all other information necessary to show the nature and extent of the claim.

(b) The commission shall prescribe forms for claims, but use of the commission forms is not mandatory. (60th Legis., Ch. 45, Sec. 5(b), sen. 4, 5.)

§ 5.308. Hearings on Claims; Notice

The commission shall set a time and a place for hearing all claims. Not less than 30 days before commencement of the hearings, the commission shall give notice of the hearings by certified mail to all persons who have filed claims in accordance with Section 5.307 of this code; or this notice may be included in the notice of adjudication provided in Section 5.306 of this code. The hearings shall be conducted as provided in Section 5.337 of this code. (60th Legis., Ch. 45, Sec. 5(c).)

§ 5.309. Preliminary Determination of Claims

(a) On completion of the hearings, the commission shall make a preliminary determination of the claims to water rights under adjudication.

(b) One copy of the preliminary determination shall be furnished without charge to each person who filed a claim in accordance with Section 5.307 of this code. Additional copies of the preliminary determination

shall be made available for public inspection at convenient locations throughout the river basin, as designated by the commission. Copies shall also be made available to other interested persons at a reasonable price, based on the cost of reproduction. (60th Legis., Ch. 45, Sec. 5(d), sen. 1, 2, 3, 4.)

§ 5.310. Evidence Open to Inspection

All evidence presented to or considered by the commission shall be open to public inspection for a period of not less than 60 days, as fixed by the commission, after the notice prescribed in Section 5.312 of this code is issued. (60th Legis., Ch. 45, Sec. 5(d), sen. 5.)

§ 5.311. Date for Filing Contests

The commission shall set a date for filing contests on the preliminary determination, which date shall not be less than 30 days after the period for public inspection of the evidence has closed. (60th Legis., Ch. 45, Sec. 5(d), sen. 6.)

§ 5.312. Notice of Preliminary Determination; Copies

(a) Promptly after the preliminary determination is made as provided in Section 5.309 of this code, the commission shall publish notice of the determination once a week for two consecutive weeks in one or more newspapers having general circulation in the river basin in which the stream or segment that is the subject of the adjudication is located.

(b) The commission shall also send notice by certified mail to each claimant of water rights within the river basin in which the stream or segment is located, to the extent that the claimants can be reasonably ascertained from the records of the commission.

(c) Each notice shall state:

(1) the place and the period of time that the preliminary determination and evidence presented to or considered by the commission will be open for public inspection;

(2) the locations throughout the river basin where copies of the preliminary determination will be available for public inspection;

(3) the method of ordering copies of the preliminary determination, and the charge for copies;

(4) the date by which contests on the preliminary determination must be filed. (60th Legis., Ch. 45, Sec. 5(d), sen. 7, 8, 9.)

§ 5.313. Filing Contests

(a) Any water right claimant affected by the preliminary determination, including any claimant to water rights within the river basin but outside the stream or segment under adjudication, who disputes the preliminary determination, may, within the time for filing contests prescribed by the commission in the notice, including any extension of the time, file a written contest with the commission, stating with reasonable certainty the grounds of his contest.

(b) The statement filed to contest a preliminary determination must be verified by an affidavit of the contestant, his agent, or his attorney.

(c) If the contest is directed against the preliminary determination of the water rights of other claimants, a copy shall be served on each of these claimants or his attorney by certified mail, and proof of service shall be filed with the commission. (60th Legis., Ch. 45, Sec. 5(e), sen. 1, 2.)

§ 5.314. Hearing on Contest; Notice

After the time for filing contests has expired, the commission shall prepare a notice setting forth the part of the preliminary determination

to which each contest is directed and the time and place of a hearing on the contest. The notice shall be sent to each claimant of water rights within the river basin in which the stream or segment is located, to the extent that the claimants can be reasonably ascertained from the records of the commission. The hearing shall be conducted as provided in Section 5.337 of this code. (60th Legis., Ch. 45, Sec. 5(e), sen. 3, 4, 5.)

§ 5.315. Final Determination

On completion of the hearings on all contests, the commission shall make a final determination of the claims to water rights under adjudication. The commission shall send a copy of the final determination, and any modification of the final determination, to each claimant whose rights are adjudicated and to each contesting party. (60th Legis., Ch. 45, Sec. 5(f), sen. 1, 2.)

§ 5.316. Application for Rehearing

Within 30 days from the date of the final determination, any affected party may apply to the commission for a rehearing. Applications for rehearing which in the opinion of the commission are without merit may be denied without notice to other parties, but no application for rehearing shall be granted without notice to each claimant whose rights are adjudicated and to each contesting party. (60th Legis., Ch. 45, Sec. 5(f), sen. 3, 4.)

§ 5.317. Filing Final Determination with District Court

(a) As soon as practicable after the disposition of all applications for rehearing, the commission shall file a certified copy of the final determination, together with all evidence presented to or considered by the commission, in a district court of any county in which the stream or segment under adjudication is located. However, if the stream or segment under adjudication includes all or parts of three or more counties and if 10 or more affected persons who appeared in the proceedings petition the commission to do so, the commission shall file the action in a convenient district court of a judicial district which is not within the river basin of the stream or segment under adjudication.

(b) The commission shall obtain an order from the court fixing a time not less than 30 days from the date of the order for the filing of exceptions to the final determination and also fixing a time not less than 60 days from the date of the order for the commencement of hearings on exceptions.

(c) The commission shall immediately give written notice of the court order by certified mail to all parties who appeared in the proceedings before the commission. The commission shall file proof of the service with the court. (60th Legis., Ch. 45, Sec. 5(g).)

§ 5.318. Exceptions to Final Determination

(a) Any affected person who appeared in the proceeding before the commission may file exceptions to the final determination. An exception must state with a reasonable degree of certainty the grounds for the exception and must specify the particular paragraphs and pages of the determination to which the exception is taken.

(b) Three copies of the exceptions shall be filed in court, and a copy shall be served on the commission. The commission shall make copies of all exceptions available at a reasonable price, based on the cost of reproduction. (60th Legis., Ch. 45, Sec. 5(h).)

§ 5.319. Hearings on Exceptions

(a) The court shall hear any exceptions that have been filed. The commission and all affected persons who appeared in the proceedings be-

fore the commission are entitled to appear and be heard on the exceptions. The court may permit other parties in interest to appear and be heard for good cause shown.

(b) The court may conduct nonjury hearings and proceedings at any convenient location within the state. Actual expenses incurred by the court outside its judicial district shall be taxed as costs. (60th Legis., Ch. 45, Sec. 5(i).)

§ 5.320. Scope of Judicial Review

(a) In passing on exceptions, the court shall determine all issues of law and fact independently of the commission's determination. The substantial evidence rule shall not be used. The court shall not consider any exception which was not brought to the commission's attention by application for rehearing. The court shall not consider any issue of fact raised by an exception unless the record of evidence before the commission reveals that the question was genuinely in issue before the commission.

(b) A party in interest may demand a jury trial of any such issue of fact, but the court may in its discretion have a separate trial with a separate jury of any such issue.

(c) The legislature declares that the provisions of this section are not severable from the remainder of this subchapter, and that this subchapter would not have been passed without the inclusion of this section. If this section is for any reason held invalid, unconstitutional, or inoperative in any way, the holding applies to the entire subchapter so that the entire subchapter is null and void. (60th Legis., Ch. 45, Sec. 5(j).)

§ 5.321. Evidence

Any exception heard by the court without a jury may be resolved on the record of evidence before the commission, or the court may take additional evidence or direct that additional evidence be heard by the commission. (60th Legis., Ch. 45, Sec. 5(k), sen. 1.)

§ 5.322. Final Decree

(a) After the final hearing, the court shall enter a decree affirming or modifying the order of the commission.

(b) The court may assess the costs as it deems just.

(c) An appeal may be taken from the decree of the court in the same manner and with the same effect as in other civil cases.

(d) The final decree in every water right adjudication is final and conclusive as to all existing and prior rights and claims to the water rights in the adjudicated stream or segment of a stream. The decree is binding on all claimants to water rights outside the adjudicated stream or segment of a stream.

(e) Except for domestic and livestock purposes or rights subsequently acquired by permit, a water right is not recognized in the adjudicated stream or segment of a stream unless the right is included in the final decree of the court. (60th Legis., Ch. 45, Sec. 5(k), sen. 2, 3, 4, 5.)

§ 5.323. Certificate of Adjudication

(a) When a final determination of the rights to the waters of a stream has been made in accordance with the procedure provided in this subchapter and the time for a rehearing has expired, the commission shall issue to each person adjudicated a water right a certificate of adjudication, signed by the chairman and bearing the seal of the commission.

(b) In the certificate the commission shall include:

(1) a reference to the final decree;

(2) the name and post-office address of the holder of the adjudicated right;

- (3) the priority, extent, and purpose of the adjudicated right; and if the right is for irrigation, a description of the irrigated land; and
- (4) all other information in the decree relating to the adjudicated right. (60th Legis., Ch. 45, Sec. 5(l).)

§ 5.324. Recordation of Certificate

(a) The commission shall transmit the certificate of adjudication or a true copy to the county clerk of each county in which the appropriation is made.

(b) On receipt of the recording fee from the holder of the certificate, the county clerk shall file and record the certificate in a well-bound book provided and kept for that purpose only. The clerk shall index the certificate alphabetically under the name of the holder of the certificate of adjudication and under the name of the stream or source of water supply.

(c) When a certificate of adjudication is filed and recorded as provided in this section, the county clerk shall deliver the certificate, on demand, to the holder. (60th Legis., Ch. 45, Sec. 5(m).)

§ 5.325. Water Divisions

The commission shall divide the state into water divisions for the purpose of administering adjudicated water rights. Water divisions may be created from time to time as the necessity arises. The divisions shall be constituted to secure the best protection to the holders of water rights and the most economical supervision on the part of the state. (60th Legis., Ch. 45, Sec. 8(a).)

§ 5.326. Appointment of Watermaster

(a) The commission may appoint one watermaster for each water division.

(b) A watermaster holds office until a successor is appointed. The commission may remove a watermaster at any time.

(c) The commission may employ assistant watermasters and other employees necessary to aid a watermaster in the discharge of his duties.

(d) In a water division in which the office of watermaster is vacant, the commission has the powers of a watermaster.

(e) The commission shall supervise and generally direct the watermaster in the performance of his duties. A watermaster is responsible to the commission for the proper performance of his duties.

(f) A person dissatisfied with any action of a watermaster may apply to the commission for relief. (60th Legis., Ch. 45, Sec. 8(b).)

§ 5.327. Duties of Watermaster

(a) A watermaster shall divide the water of the streams or other sources of supply of his division in accordance with the adjudicated water rights.

(b) A watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of his division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(c) A watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined. (60th Legis., Ch. 45, Sec. 8(c), sen. 1, 2.)

§ 5.328. Watermaster's Notice Posted

If, in the performance of his duties, a watermaster regulates diversion works or the controlling works of reservoirs, he shall attach to the works

a written notice, properly dated and signed, stating that the works have been properly regulated and are wholly under his control. The notice is legal notice to all parties interested in the diversion and distribution of the water served by the diversion works or reservoir. (60th Legis., Ch. 45, Sec. 8(c), sen. 3.)

§ 5.329. Compensation and Expenses of Watermaster

(a) The commission shall pay the compensation and necessary expenses of a watermaster, assistant watermasters, and other necessary employees, but the holders of water rights that have been determined or adjudicated and are to be administered by the watermaster shall reimburse the commission for the compensation and expenses.

(b) After the adjudication decree becomes final, the commission shall notify each holder of water rights under the decree of the amount of compensation and expenses that will be required annually for the administration of the water rights so determined.

(c) The commission shall hold a public hearing to determine the apportionment of the costs of administration of adjudicated water rights among the holders of the rights. After a public hearing the commission shall issue an order assessing the annual cost against the holders of water rights to whom the water will be distributed under the final decree. The commission shall equitably apportion the costs. The commission may provide for payments in installments and shall specify the dates by which payments shall be made to the commission.

(d) The commission shall transmit all collections under this section to the state treasurer.

(e) No water shall be diverted, taken, or stored by, or delivered to, any person while he is delinquent in the payment of his assessed costs.

(f) An order of the commission assessing costs remains in effect until the commission issues a further order. The commission may modify, revoke, or supersede an order assessing costs with a subsequent order. The commission may issue supplementary orders from time to time to apply to new diversions. (60th Legis., Ch. 45, Sec. 8(d).)

§ 5.330. Outlet for Free Passage of Water

The owner of any works for the diversion or storage of water shall maintain to the satisfaction of the commission a substantial headgate at the point of diversion, or a gate on each discharge pipe of a pumping plant, constructed so that it can be locked at the proper place by the watermaster, or a suitable outlet in a dam to allow the free passage of water that the owner of the dam is not entitled to divert or impound, the suitability of the outlet to be determined by the commission. (60th Legis., Ch. 45, Sec. 8(e), sen. 1.)

§ 5.331. Measuring Devices

The commission may require the owner of any works for the diversion, taking, storage, or distribution of water to construct and maintain suitable measuring devices at points that will enable the watermaster to determine the quantities of water to be diverted, taken, stored, released, or distributed, in order to satisfy the rights of the respective users. (60th Legis., Ch. 45, Sec. 8(e), sen. 2.)

§ 5.332. Installation of Flumes

The commission may order flumes to be installed along the line of any ditch if necessary for the protection of water rights or other property. (60th Legis., Ch. 45, Sec. 8(e), sen. 3.)

§ 5.333. Failure to Comply with Commission Directions

If the owner of waterworks using state water refuses or neglects to comply with the directions of the commission given pursuant to Section 5.330, 5.331, or 5.332 of this code, the commission, after 10 days' notice or after a period of additional time that is reasonable under the circumstances, may order the watermaster to make adjustments of the control works to prevent the owner of the works from diverting, taking, storing, or distributing any water until he has fully complied with the order of the commission. (60th Legis., Ch. 45, Sec. 8(e), sen. 4.)

§ 5.334. Suit Against Commission for Injury

Any person who is injured by an act of the commission under this subchapter may bring suit against the commission to review the action or to obtain an injunction. If the water right involved has been adjudicated as provided in this subchapter, the court shall issue an injunction only if it is shown that the commission has failed to carry into effect the decree adjudicating the water right. (60th Legis., Ch. 45, Sec. 8(f).)

§ 5.335. Administration of Water Rights not Adjudicated

(a) If any area in which water rights of record in the office of the commission have not been adjudicated, the claimants of the rights and the commission may enter into a written agreement for their administration.

(b) An agreement made under authority of this section shall provide:

(1) the basis and manner of distribution of the waters to which the agreement relates;

(2) the services of a special watermaster, and assistants if necessary, to carry out the agreement; and

(3) the allocation, collection, and payment of the annual costs of administration.

(c) An agreement to administer unadjudicated water rights shall be recorded in the offices of the commission and of the county clerk of each county in which any of the works or lands affected by the agreement are located.

(d) The administration of water rights by agreement is governed by the provisions of this subchapter except as regards allocation and payment of the expenses of the administration.

(e) No agreement authorized by this section impairs any vested right to the use of water or creates any additional rights to the use of water. (60th Legis., Ch. 45, Sec. 8(g).)

§ 5.336. Administration of Permits Issued After Adjudication

Permits, other than temporary permits, that are issued by the commission to appropriate water from an adjudicated stream or segment are subject to administration in the same manner as is provided in this subchapter for adjudicated water rights. (60th Legis., Ch. 45, Sec. 6.)

§ 5.337. Hearings: Notice and Procedure

(a) The commission shall give notice of a hearing or other proceeding it orders under this subchapter in the manner prescribed in the rules and regulations of the commission, unless this subchapter specifically provides otherwise.

(b) In any proceeding in any part of the state, the commission may

(1) take evidence, including the testimony of witnesses;

(2) administer oaths;

- (3) issue subpoenas and compel the attendance of witnesses in the same manner as subpoenas are issued out of the courts of the state;
- (4) compel witnesses to testify and give evidence; and
- (5) order the taking of depositions and issue commissions for the taking of depositions in the same manner as depositions are obtained in civil actions.

(c) Evidence may be taken by a duly appointed reporter before the commission or before an authorized representative who has the power to administer oaths.

(d) Repealed by Acts 1971, 62nd Leg., p. 1769, ch. 518, § 10.

(e) If a person neglects or refuses to comply with an order or subpoena issued by the commission, or refuses to testify on any matter about which he may be lawfully interrogated, the commission may apply to a district court of the county in which the proceeding is held to punish him in the manner provided by law for such disobedience in civil actions.

(f) The commission may adjourn its proceedings from time to time and from place to place.

(g) When a proceeding before the commission is concluded, the commission shall render a decision as to the matters concerning which the proceeding was held. (60th Legis., Ch. 45, Sec. 9.)

§ 5.338. Cancellation of Water Rights

Nothing in this subchapter recognizes any abandoned or cancelled water right or impairs in any way the power of the commission under general law to forfeit, cancel, or find abandoned any water right, including adjudicated water rights. (60th Legis., Ch. 45, Sec. 10.)

§ 5.339. Underground Water Not Affected

This subchapter does not apply to underground water as defined in Section 3c, Chapter 25, Acts of the 39th Legislature, 1925, as amended (Article 7880—3c, Vernon's Texas Civil Statutes). (60th Legis., Ch. 45, Sec. 11.)

§ 5.340. Abatement of Certain Civil Suits

(a) Nothing in this subchapter prevents or precludes a person who claims the right to divert water from a stream from filing and prosecuting to a conclusion a suit against other claimants of the right to divert or use water from the same stream. However, if the commission has ordered a determination of water rights as provided in this subchapter, or if the commission orders such a determination within 90 days after notice of the filing of a suit, the suit shall be abated on the motion of the commission or any party in interest as to any issues involved in the water rights determination.

(b) If a suit is abated as provided in Subsection (a) of this section, the court may grant or continue any temporary relief necessary to preserve the status quo pending a final determination of the water rights involved. (60th Legis., Ch. 45, Sec. 7.)

§ 5.341. Saving Clause

This subchapter does not affect any action or proceeding instituted before August 28, 1967, or any right accrued before that date except those specifically provided for in this subchapter. (60th Legis., Ch. 45, Sec. 12.)

[Sections 5.342 to 5.400 reserved for expansion]

SUBCHAPTER H. COURT-APPOINTED WATERMASTER**Section 5.401. Scope of Subchapter**

The provisions of this subchapter apply to a suit if:

- (1) the state is a party;
- (2) the purpose of the suit is to determine the right of the parties to divert or use water of a surface stream; and
- (3) rights are asserted to use water in, or divert water to, not more than four counties. (55th Legis., Ch. 458, Sec. 1, sen. 1 (part).)

§ 5.402. Appointment and Authority of Watermaster

(a) A court having jurisdiction over a suit described in Section 5.401 of this code may appoint a watermaster with power to allocate and distribute, under the supervision of the court, the water taken into judicial custody.

(b) The court may not appoint a watermaster with authority to act both upstream and downstream from an existing reservoir on any surface stream of the state. However, once a watermaster is appointed, the construction of a new reservoir does not invalidate his appointment or restrict his authority over that portion of the stream contemplated by the original order of appointment. (55th Legis., Ch. 458, Sec. 1, sen. 1 (part), 2.)

(c) Under terms and conditions prescribed by the court, the watermaster may incur necessary expenses, appoint necessary deputies and assistants, and perform duties and assume responsibilities delegated to him by the court. (55th Legis., Ch. 458, Sec. 2, 13, as amended.)

§ 5.403. Compensation of Watermaster

The court shall fix the compensation of the watermaster and his staff. (55th Legis., Ch. 458, Sec. 3, sen. 1 (part); and Sec. 14, sen. 1 (part), as amended.)

§ 5.404. Expenses and Assessment of Costs of Watermaster

(a) The trial court shall assess the costs and expenses of the watermaster and his staff against all persons receiving an allocation of the water in judicial custody. The court shall assess the costs and expenses monthly or at other time intervals ordered by the court.

(b) The court shall assess the costs and expenses on the basis of:

- (1) acreage;
- (2) acre-feet of allocated water;
- (3) per capita; or
- (4) any other formula the court, after notice and hearing, determines to be the most equitable.

(c) During the pendency of an appeal, the trial court, in its discretion, may assess costs against some parties on one basis and against other parties on another basis. (55th Legis., Ch. 458, Sec. 3, sen. 1 (part), 2; and Sec. 14, sen. 1 (part), 2, as amended.)

(d) The costs and expenses are not to be taxed as ordinary court costs, but are to be considered costs necessary to protect the rights and privileges of the parties receiving allocations of water during the litigation and are to be paid by those parties. (55th Legis., Ch. 458, Sec. 4, sen. 1; and Sec. 15, sen. 1, as amended.)

§ 5.405. Failure to Pay Assessed Costs

If the costs and expenses assessed are not paid within the time prescribed by the court, the court after notice and hearing may withdraw or limit allocations of water to any party failing or refusing to pay his share until all costs and expenses assessed against him are paid in full. (55th Legis., Ch. 458, Sec. 4, sen. 2; and Sec. 15, sen. 2, as amended.)

§ 5.406. Judicial Custody of Water During Appeal

If a party appeals the judgment of the trial court, that court may retain custody of the water which it has previously taken into judicial custody and over which it has appointed a watermaster. Until final judgment is entered in the case, the trial court has exclusive jurisdiction to administer, allocate, and distribute the water retained in its custody, as provided in Section 5.407 of this code. (55th Legis., Ch. 458, Sec. 9, as amended.)

§ 5.407. Allocation and Distribution of Water During Appeal

During the pendency of an appeal, the trial court shall limit the allocation and distribution of the water in its custody to the parties adjudicated to have a valid right to use the water. However, if any party prosecutes an appeal and files a supersedeas bond, the trial court shall make any necessary adjustments in the water allocations and allocate to that party the same amount of water that he received during the proceedings in the trial court. (55th Legis., Ch. 458, Sec. 10, as amended.)

§ 5.408. Retention of Watermaster During Appeal

During the pendency of an appeal, the trial court may retain the watermaster in office with the same authority he had during the trial proceedings. (55th Legis., Ch. 458, Sec. 12, as amended.)

§ 5.409. Violations of Court Orders

If a party violates any order of the trial court, either during trial proceedings or during an appeal, the trial court may limit or withdraw his allocation of water until he corrects the violation to the satisfaction of the court. (55th Legis., Ch. 458, Sec. 5, 11, as amended.)

CHAPTER 6. WATER RIGHTS COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Section

6.001. Definitions.

[Sections 6.002 to 6.010 reserved for expansion]

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SUBCHAPTER D. JUDICIAL REVIEW

- 6.101. Judicial Review of Commission Acts.
- 6.102. Remedy for Commission Inaction.
- 6.103. Diligent Prosecution of Suit.
- 6.104. Venue.
- 6.105. Appeal of District Court Judgment.

SUBCHAPTER A. GENERAL PROVISIONS**Section 6.001. Definitions**

The definitions contained in Chapter 5, Subchapter A, of this code apply to this chapter. (New.)

[Sections 6.002 to 6.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**Section 6.011. Texas Water Rights Commission**

The Texas Water Rights Commission is an agency of the state. (R.S. Art. 7477, Sec. 3, sen. 1 (part), as amended.)

§ 6.012. Members of Commission; Appointment

The commission is composed of three members who are appointed by the governor with the advice and consent of the senate. The governor shall make the appointments in such a manner that each member is from a different section of the state. (R.S. Art. 7477, Sec. 3, sen. 2 (part), 5 (part), as amended.)

§ 6.013. Terms of Office

(a) The members of the commission hold office for staggered terms of six years; and each member shall serve until his successor is appointed and has qualified. (R.S. Art. 7477, Sec. 3, sen. 2 (part), as amended.)

(b) On February 1 of each odd-numbered year, the term of one commissioner expires. (R.S. Art. 7477, Sec. 3, sen. 3, as amended.)

§ 6.014. Qualifications

To be qualified for appointment as a member of the commission, a person must have some knowledge of water law. (R.S. Art. 7477, Sec. 3, sen. 2 (part), as amended.)

§ 6.015. Oath and Bond

A newly appointed member qualifies to take office by taking the official oath of office and executing an official bond, payable to the State of Texas, in the sum of \$10,000, in accordance with the State Employee Bonding Act (Article 6003b, Vernon's Texas Civil Statutes). (R.S. Art. 7477, Sec. 3, sen. 4 (part), as amended.)

§ 6.016. Officer of the State

Each member is an officer of the state as that term is used in the constitution. (R.S. Art. 7477, Sec. 3, sen. 4 (part), as amended.)

§ 6.017. Full-Time Service

Each member shall serve on a full-time basis. (R.S. Art. 7477, Sec. 3, sen. 5 (part), as amended.)

§ 6.018. Officers; Meetings

(a) The governor shall designate the chairman of the commission. He shall serve as chairman until the governor designates a different chairman.

(b) The chairman may designate another commissioner to act for him in his absence.

(c) The chairman shall preside at the meetings of the commission.

(d) The commission shall hold regular meetings at the times specified by a commission order and entered in its minutes. The commission may hold special meetings at the times and places within the state that the commission decides are appropriate for the performance of its duties. The chairman or acting chairman shall give the other members reasonable notice before holding a special meeting.

(e) A majority of the commission is a quorum.

(f) The chairman shall issue notice of public hearings held under the authority of the commission. (R.S. Art. 7477, Sec. 3, sen. 6, 7, 8, 9, 10, 11, as amended.)

§ 6.019. Office Space

The State Board of Control shall furnish the commission with an office in Austin, Texas, equipped with necessary furniture and supplies, to be paid for on order of the commission. (R.S. Art. 7489.)

§ 6.020. Executive Director

(a) The commission shall employ an executive director to serve at the will of the commission.

(b) The executive director is the chief administrative officer of the commission.

(c) The executive director is entitled to receive the same payment for necessary travel expenses that a member receives.

(d) The executive director is entitled to receive an annual salary as provided by the general appropriations act. (R.S. Art. 7477, Sec. 6, sen. 1, 2 (part), 3, as amended.)

§ 6.021. Legal Services

(a) The attorney general is the legal advisor of the commission. He shall represent the commission in litigation in which it is a party.

(b) The chairman of the commission, with the written consent of the attorney general, may employ other legal counsel regularly or temporarily. (R.S. Art. 7477, Sec. 10, as amended.)

§ 6.022. Employees

The executive director shall employ the full-time and part-time employees, including hydrologists and other specialists in the field of water rights administration, that the commission decides are necessary to assist it in carrying out its powers, duties, and functions. (R.S. Art. 7477, Sec. 6, sen. 2 (part), as amended.)

§ 6.023. Administrative Organization

The commission may organize and reorganize its administrative divisions and services to achieve administrative efficiency. (R.S. Art. 7477, Sec. 4 (part), as amended.)

§ 6.024. Reports to the Governor

(a) The commission shall make biennial written reports to the governor.

(b) The commission shall include in the biennial reports:

(1) data on its activities;

(2) suggestions for amending existing laws; and

(3) suggestions for new laws that should be enacted. (R.S. Art. 7477, Sec. 5, as amended.)

§ 6.025. Fiscal Reports

The commission shall file with the comptroller of public accounts full, detailed, and verified monthly and annual reports of all its receipts and expenditures. (R.S. Art. 7533, Sec. 1 (part), as amended.)

§ 6.026. Seal

The commission shall have a seal and shall prescribe its form. (R.S. Art. 7531, Sec. 1, sen. 1 (part), as amended.)

[Sections 6.027 to 6.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**Section 6.051. Scope of Subchapter**

The powers and duties enumerated in this subchapter are the general powers and duties of the commission and those incidental to the conduct of its business. The commission has other specific powers and duties as prescribed in other sections of this code. (New.)

§ 6.052. Commission to be Knowledgeable

The commission shall be knowledgeable of the water courses of the state and of the needs of the state concerning the use, storage, and conservation of water. (R.S. Art. 7525.)

§ 6.053. Conservation of Water

The commission shall administer the law so as to promote the judicious use and the maximum conservation of water. (42nd Legis., Ch. 128, Sec. 4 (part).)

§ 6.054. Use of Board Surveys; Policy

The commission shall make use of surveys, studies, and investigations conducted by the Texas Water Development Board in order to ascertain the character of the principal requirements of the district regional division of the watershed areas of the state for beneficial uses of water, to the end that distribution of the right to take and use state water may be more equitably administered in the public interest, that privileges granted for recognized uses may be economically coordinated so as to achieve the maximum of public value from the state's water resources, and that the distinct regional necessities for water control and conservation and for control of harmful floods may be recognized. (42nd Legis., Ch. 128, Sec. 5.)

§ 6.055. Rule-Making

(a) The commission shall adopt reasonable rules relating to the conduct of its affairs, including rules describing the procedure to be followed in a commission hearing or in any other administrative action.

(b) The commission may make reasonable rules to provide for enforcement of the provisions of this code which are subject to administration by the commission.

(c) The commission shall have the rules printed and shall furnish copies of them to all interested persons who apply for them. The commission may charge a reasonable amount for copies of the rules.

(d) No new rule or amendment of an existing rule is effective until at least 30 days have elapsed since the date a copy of the new or amended rule was filed with the secretary of state. (R.S. Art. 7531, Sec. 1, sen. 1 (part), 2, 3, 4, as amended; R.S. Art. 7477, Sec. 4 (part), as amended.)

§ 6.056. Rate-Fixing Power

The commission shall fix reasonable rates for the furnishing of water for any purpose mentioned in Chapter 5 or 6 of this code. (R.S. Art. 7563.)

§ 6.057. Permit Applications

The commission shall receive, administer, and act on all applications for permits and permit amendments:

- (1) to appropriate public water for beneficial use or storage; or
- (2) to construct works for the impoundment, storage, diversion, or transportation of public water. (R.S. Art. 7477, Sec. 8(a), sen. 1, as amended.)

§ 6.058. Hearings: Recess, Etc.

The commission may recess any hearing or examination from time to time and from place to place. (R.S. Art. 7566, sen. 1.)

§ 6.059. Power to Administer Oaths

Each member of the commission and its secretary may administer oaths in any examination or hearing before the commission. (R.S. Art. 7566, sen. 2.)

§ 6.060. Witnesses

(a) In any proceeding held before it, the commission may issue subpoenas compelling the attendance of witnesses according to rules prescribed by the commission.

(b) A witness at a hearing before the commission is entitled to receive the same fees and mileage as a witness in a civil action. The party calling a witness shall pay the fees and mileage. Fees and mileage of a witness called by the commission shall be paid out of funds made available to the commission by the legislature. (R.S. Art. 7565.)

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1767, ch. 518, § 2, eff. May 31, 1971.

§ 6.061. Injunctions

(a) The commission may enforce its rules by injunction or other appropriate remedy in a court of competent jurisdiction.

(b) The commission may enforce the terms and conditions of any permit or certified filing by injunction or other appropriate remedy in a court of competent jurisdiction. (R.S. Art. 7531, Sec. 2, as amended.)

§ 6.062. Venue in Commission Suits

Except as provided in Section 5.317(a) of this code, a suit instituted by or for the commission may be brought in a court of competent jurisdiction in any county where all or part of the land involved in the controversy is located. (R.S. Art. 7609.)

§ 6.063. Power to Condemn Works

(a) The commission may condemn existing works if their existence or operation may, in the judgment of the commission, become a public menace or dangerous to life and property.

(b) In all cases of proposed condemnation, the commission shall notify the interested party of the contemplated action and shall specify a time for him to appear and be heard. (R.S. Art. 7529.)

§ 6.064. Power to Inspect

The commission or its authorized agent may inspect any impounding, diversion, or distribution works during construction to determine whether or not they are being constructed in a safe manner and whether or not they are being constructed according to the order of the commission. (R.S. Art. 7514.)

§ 6.065. Power to Enter Land

Any member or employee of the commission may enter any person's land, natural waterway, or artificial waterway for the purpose of making an investigation that would, in the judgment of the commission, assist the commission in the discharge of its duties. (R.S. Art. 7581.)

§ 6.066. Agency Cooperation

In performing its duties, the commission may cooperate with any person. (R.S. Art. 7477, Sec. 11, as amended.)

§ 6.067. Evaluation of Outstanding Permits

The commission shall actively and continually evaluate outstanding permits and certified filings and shall carry out measures to cancel wholly or partially the certified filings and permits that are subject to cancellation. (R.S. Art. 7477, Sec. 8(c), as amended.)

§ 6.068. Fees

(a) The commission shall charge and collect the fees prescribed by this section. The commission shall make a record of fees prescribed when due, and shall render an account to the person charged with the fees. Each fee is a separate charge and is in addition to other fees unless provided otherwise.

(b) The fee for filing an application or petition is \$25 plus the cost of required notice.

(c) The fee for recording an instrument in the office of the commission is \$1.00 per page.

(d) The fee for the use of water for irrigation is 50 cents per acre to be irrigated.

(e) The fee for the use of water for a steam or gas power plant, or for cooling, condensing, or steam purposes is \$1.00 for each indicated horsepower.

(f) The fee for impounding water, except under Section 5.140 of this code, is fifty cents (50¢) per acre-foot of storage, based on the total holding capacity of the reservoir at normal operating level, provided that no additional fee shall be charged for recreational use for any impoundments of water now or hereafter permitted by the State, or exempted from permit by statute.

(g) The fee for other uses of water not specifically named in this section is \$1.00 per acre-foot.

(h) A fee charged under this section for one use of water under a permit from the commission may not exceed \$5,000. The fee for each additional use of water under a permit for which the maximum fee is paid may not exceed \$1,000.

(i) The fees prescribed by Subsections (d) through (g) of this section are one-time fees, payable when the application for an appropriation is made. However, if the total fee for a permit exceeds \$1,000, the applicant shall pay one-tenth of the fee when the application is filed, one-tenth within 30 days after notice is mailed to him that the permit is granted, and the balance before he begins to use water under the permit. If the applicant does not pay all of the amount owed before he begins to use water under the permit, his permit is annulled. (R.S. Art. 7532, Sec. 1, as amended; R.S. Art. 7535.)

Subsec. (f) amended by Acts 1971, 62nd Leg., p. 1619, ch. 447, § 1, eff. May 26, 1971.

§ 6.069. Fees: Exemptions

The Texas Water Development Board and the Texas Parks and Wildlife Commission are exempted from payment of any filing, recording, or use fees required by this code. (R.S. Art. 7532, Sec. 3, as amended.)

§ 6.070. Disposition of Fees, Etc.

(a) The commission shall immediately deposit the fees and charges it collects in the state treasury. (R.S. Art. 7533, Sec. 1 (part), as amended.)

(b) The commission shall deposit all costs collected under Chapter 5, Subchapter F of this code in the state treasury to the credit of the water rights administration fund, from which the commission shall pay all expenses necessary to efficiently administer and perform the duties de-

scribed in Sections 5.325–5.335 of this code. (R.S. Art. 7533, Sec. 2, as amended.)

§ 6.071. Disposition of Fees Pending Determination

The commission shall hold all fees, except filing fees, which are paid with an application until the commission finally determines whether the application should be granted. If the application is not granted, the commission shall return the fees to the applicant. (R.S. Art. 7532, Sec. 2, as amended.)

§ 6.072. Certified Copies

(a) On application and payment of the fees prescribed by commission rule, the commission shall furnish certified copies of:

- (1) any of its proceedings;
- (2) any other official act of record; or
- (3) any paper, map, or document filed in the office of the commission in connection with the appropriation of water or the determination or administration of water rights.

(b) The certified copy is admissible as evidence in any court or administrative proceeding if it is:

(1) signed by the chairman, a person designated by the chairman, the executive director, or the secretary; and

(2) issued under the seal of the commission. (R.S. Art. 7477, Sec. 13, as amended.)

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, § 3, eff. May 31, 1971.

§ 6.073. Federal Projects

(a) In this section:

(1) "federal project" means an engineering undertaking or work to construct, enlarge, or extend a dam, lake, reservoir, or other water-storage or flood-control work, or a drainage, reclamation, or canalization undertaking, or any combination of these, financed in whole or in part with funds of the United States;

(2) "engineering report" means the plans, data, profiles, maps, estimates, and drawings prepared in connection with a federal project; and

(3) "federal agency" means the Corps of Engineers of the United States Army, the Bureau of Reclamation of the Department of Interior, the Soil Conservation Service of the Department of Agriculture, the United States Section of the International Boundary and Water Commission, or any other agency of the United States, the function of which includes the conservation, development, retardation by impounding, control, or study of the water resources of Texas or the United States. (54th Legis., Ch. 47, Sec. 1.)

(b) When the governor receives an engineering report submitted by a federal agency seeking the governor's approval of a federal project, he shall immediately forward the report to the commission for its study concerning the feasibility of the federal project. (54th Legis., Ch. 47, Sec. 2, sen. 1.)

(c) The commission shall hold a public hearing to receive the views of persons and groups who might be affected by the proposed federal project. The commission shall publish notice of the time, date, place, nature, and purpose of the public hearing, once each week for two consecutive weeks before the date stated in the notice, in a newspaper having general circulation in the section of the state where the federal project is to be located or the work done. (54th Legis., Ch. 47, Sec. 2, sen. 2, 3.)

(d) The commission shall conduct the hearing in the same manner that it conducts a hearing on an application for a permit to appropriate state water. After hearing all the evidence both for and against approval of the federal project, the commission shall enter its order approving or disapproving the feasibility of the federal project, and the order shall include the commission's reasons for approval or disapproval. (54th Legis., Ch. 47, Sec. 3.)

(e) In determining feasibility the commission shall consider, among other relevant factors:

- (1) the effect of the federal project on water users on the stream;
- (2) the public interest to be served;
- (3) the development of damsites to the optimum potential for water conservation;
- (4) the integration of the federal project with other water conservation activities;
- (5) the protection of the state's interests in its water resources; and
- (6) the engineering practicality of the federal project, including cost of construction, operation, and maintenance. (54th Legis., Ch. 47, Sec. 4.)

(f) The commission shall forward to the governor a certified copy of its order. The commission's finding that the federal project is either feasible or not feasible is final and the governor shall notify the federal agency that the federal project has been either approved or disapproved. (54th Legis., Ch. 47, Sec. 5.)

(g) The provisions of this section do not apply to the state soil conservation board as long as that board is designated by the governor as the authorized state agency having supervisory responsibility to approve or disapprove of projects designed to effectuate watershed-protection and flood-prevention programs initiated in cooperation with the United States Department of Agriculture. (54th Legis., Ch. 47, Sec. 6.)

§ 6.074. Continuing Right of Supervision of Districts Created Under Article XVI, Section 59, of the Texas Constitution

(a) The powers and duties of all districts and authorities created under Article XVI, Section 59, of the Texas Constitution, are subject to the continuing right of supervision of the State of Texas, by and through the Texas Water Rights Commission or its successor. (61st Legis., Ch. 564, Sec. 1 (part).)

(b) The provisions of this section shall not apply to any river authority encompassing 10 or more counties which was not subject to the continuing right of supervision of the State of Texas, by and through the Texas Water Rights Commission or its predecessors, on June 10, 1969. (61st Legis., Ch. 564, Sec. 1 (part).)

§ 6.075. Duty to Investigate Fresh Water Supply District Projects

(a) In this section:

- (1) "district" means fresh water supply district; and
- (2) "designated agent" means any licensed engineer selected by the commission to perform the functions specified in this section. (New; 61st Legis., Ch. 563, Sec. 1, sen. 12.)

(b) The commission shall investigate and report on the organization and feasibility of all districts created under Chapter 53 of this code which issue bonds under the provisions of that chapter. (61st Legis., Ch. 563, Sec. 1, sen. 1.)

(c) A district that wants to issue bonds for any purpose shall submit to the commission a written application for investigation, together with a copy of the engineer's report and a copy of the data, profiles, maps, plans, and specifications made in connection with the engineer's report. (61st Legis., Ch. 563, Sec. 1, sen. 2.)

(d) The commission or its designated agent shall examine the application and other information and shall visit the project and carefully inspect it. The commission or its designated agent may ask for and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements. (61st Legis., Ch. 563, Sec. 1, sen. 3.)

(e) The commission or its designated agent shall file in the commission office written suggestions for changes and improvements and shall furnish a copy of the suggestions to the board of the district. If the commission finally approves or refuses to approve the project, or the issuance of bonds for the improvements, it shall make a full written report, file it in its office, and furnish a copy of the report to the board of the district. (61st Legis., Ch. 563, Sec. 1, sen. 4, 5.)

(f) During the course of construction of the project and improvements, no substantial alterations shall be made in the plans and specifications without the approval of the commission. The commission or its designated agent has full authority to inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission. (61st Legis., Ch. 563, Sec. 1, sen. 6, 7.)

(g) If the commission finds that the project is not being constructed in accordance with the approved plans and specifications, it immediately shall notify in writing by certified mail each member of the board of the district and its manager. If, within 10 days after the notice is mailed, the board of the district does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the commission shall give written notice of that fact to the attorney general. (61st Legis., Ch. 563, Sec. 1, sen. 8, 9.)

(h) After the attorney general receives the notice, he may bring an action for injunctive relief, or he may bring quo warranto proceedings against the directors. Venue for either of these actions is exclusively in the district court of Travis County. (61st Legis., Ch. 563, Sec. 1, sen. 10, 11.)

§ 6.076. Violations of Rules. Regulations. Orders. Certified Filings, and Permits

(a) Any person, association of persons, corporation, water improvement district, or irrigation district, or any agent, officer, employee, or representative of any of these named entities who shall wilfully violate any of the rules, regulations, or orders promulgated by the commission or any of the terms and conditions contained in declarations of appropriations (certified filings) and permits to appropriate water is liable to a civil penalty of not more than \$100 a day for each day that the violation continues to take place.

(b) An action to collect the penalty provided in this section must be brought within two years from the date of the alleged violation.

Added by Acts 1971, 62nd Leg., p. 2609, ch. 856, § 1, eff. June 9, 1971.

[Sections 6.077 to 6.100 reserved for expansion]

SUBCHAPTER D. JUDICIAL REVIEW

Section 6.101. Judicial Review of Commission Acts

(a) A person affected by a ruling, order, decision, or other act of the commission may file a petition to review, set aside, modify, or suspend the act of the commission.

(b) A person affected by a ruling, order, or decision of the commission must file his petition within 30 days after the effective date of the rul-

ing, order, or decision. A person affected by an act other than a ruling, order, or decision must file his petition within 30 days after the date the commission performed the act. (R.S. Art. 7477, Sec. 12(a), sen. 1, as amended.)

§ 6.102. Remedy for Commission Inaction

A person affected by the failure of the commission to act in a reasonable time on an application to appropriate water, or to perform any other duty with reasonable promptness, may file a petition to compel the commission to show cause why it should not be directed by the court to take immediate action. (R.S. Art. 7477, Sec. 12(a), sen. 2, as amended.)

§ 6.103. Diligent Prosecution of Suit

The plaintiff shall prosecute with reasonable diligence any suit brought under Section 6.101 or 6.102 of this code. If the plaintiff does not secure proper service of process, or does not prosecute his suit within one year after it is filed, the court shall presume that the suit has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the attorney general unless the plaintiff after receiving due notice can show good and sufficient cause for the delay. (R.S. Art. 7477, Sec. 12(a), sen. 4, 5, 6, as amended.)

§ 6.104. Venue

A suit instituted under Section 6.101 or 6.102 of this code must be brought in the district court of Travis County. (R.S. Art. 7477, Sec. 12(a), sen. 3, as amended.)

§ 6.105. Appeal of District Court Judgment

A judgment or order of a district court in a suit brought for or against the commission is appealable as are other civil cases in which the district court has original jurisdiction. (R.S. Art. 7477, Sec. 12(b), as amended.)

SUBTITLE B. WATER DEVELOPMENT**CHAPTER 11. WATER DEVELOPMENT BOARD****SUBCHAPTER A. GENERAL PROVISIONS****Section**

11.001. Definitions.

[Sections 11.002 to 11.010 reserved for expansion]

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- 11.011. Texas Water Development Board.
- 11.012. Members of Board; Appointment.
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- 11.501. Improvement of Streams and Canals and Construction of Facilities Within Cypress Creek Drainage Basin.
- 11.502. Long-term Contracts with the United States.
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SUBCHAPTER A. GENERAL PROVISIONS

Section 11.001. Definitions

In this chapter, unless the context requires a different definition:

- (1) "Board" means the Texas Water Development Board.
- (2) "Chairman" means the chairman of the Texas Water Development Board.
- (3) "Executive director" means the executive director of the Texas Water Development Board.
- (4) "Political subdivision" means a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, and including any interstate compact commission to which the state is a party.
- (5) "Project" means any engineering undertaking or work to conserve and develop surface or subsurface water resources of the state including the control, storage, and preservation of its storm water and floodwater and the water of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage projects, including underground storage projects, filtration and water treatment plants including any system necessary to transport water from storage to points of distribution, or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers, by the acquisition, by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods.
- (6) "Weighted average effective interest rate" means the rate of interest computed by dividing the total value of all coupons attached to the bonds issued under this chapter, after deducting all premiums and adding all discounts involved, by the total number of years from the date of issuance to the date of maturity of each bond previously issued.
- (7) "Bonds" means the Texas Water Development Bonds authorized by the Texas Constitution.
- (8) "Waste" has the same meaning as provided in Section 21.003 of this code. (55th Legis., Ch. 425, Sec. 2, as amended.)

Amended by Acts 1971, 62nd Leg., p. 1773, ch. 518, § 21, eff. May 31, 1971.

[Sections 11.002 to 11.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION PROVISIONS**Section 11.011. Texas Water Development Board**

The Texas Water Development Board is an agency of the state. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 1, as amended.)

§ 11.012. Members of Board; Appointment

(a) The board is composed of six members, who are appointed by the governor with the advice and consent of the senate.

(b) The governor shall make the appointments in such a manner that:

(1) one member is from the field of engineering, one is from the field of public or private finance, one is a lawyer, one is a farmer or rancher, and two are from the public at large;

(2) each member is from a different section of the state; and

(3) each member before appointment has had at least 10 years of successful business or professional experience. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 2, 3, as amended.)

§ 11.013. Officers of State; Oath

Each member of the board is an officer of the state as that term is used in the constitution, and each member shall qualify by taking the official oath of office. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 7, as amended.)

§ 11.014. Terms of Office

The members of the board hold office for staggered terms of six years, with the terms of two members expiring every two years. Each member holds office until his successor is appointed and has qualified. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 4, 5, 6, as amended.)

§ 11.015. Board Officers

(a) The governor shall designate one member as chairman of the board to serve at the will of the governor.

(b) The members shall elect a vice chairman every two years. The board shall fill a vacancy in the office of vice chairman for the remainder of the unexpired term. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 9, 10, 11, as amended.)

§ 11.016. Board Meetings

(a) The board shall meet once each month on a day and at a place selected by it, subject to recesses at the discretion of the board. The chairman may call a special meeting at any time by giving reasonable notice to the other members. (55th Legis., Ch. 425, Sec. 21, sen. 1, 2, as amended.)

(b) The chairman, or in his absence the vice chairman, shall preside at all meetings of the board.

(c) A majority of the members constitutes a quorum to transact business. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 12, 13, as amended.)

§ 11.017. Compensation; Expenses

A member is entitled to receive not more than \$25 for each day he serves in the performance of his duties, together with travel and other necessary expenses. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 8, as amended.)

§ 11.018. Administrative Organization

The board may organize and reorganize its administrative sections and divisions to achieve efficiency. (55th Legis., Ch. 425, Sec. 3, subsec. (c), sen. 2, as amended.)

§ 11.019. Executive Director

The board shall employ an executive director to serve at the will of the board. (55th Legis., Ch. 425, Sec. 21, sen. 4, as amended.)

§ 11.020. Development Fund Manager

The executive director, with the approval of the board, shall appoint the development fund manager, who shall perform all duties required by this chapter and by the board. (55th Legis., Ch. 425, Sec. 21, sen. 6, as amended.)

§ 11.021. Travel Expenses

The executive director, chief engineer, development fund manager, and the general counsel are entitled to receive necessary travel expenses in the same manner as members of the board. (55th Legis., Ch. 425, Sec. 21, sen. 7; subdiv. (k); as amended.)

§ 11.022. Compensation of Employees

The executive director and the other employees of the board are entitled to compensation as provided by the general appropriations act. (55th Legis., Ch. 425, Sec. 21, sen. 8, as amended, and Sec. 22, sen. 5.)

§ 11.023. Seal

The board shall have a seal bearing the words "Texas Water Development Board" encircling the oak and olive branches common to other official seals. (55th Legis., Ch. 425, Sec. 21, sen. 3, as amended.)

§ 11.024. Attorney General's Approval of Contracts, Etc.

The board shall obtain the approval of the attorney general as to the legality of:

- (1) the resolution of the board authorizing state ownership in a project; and
- (2) all contracts authorized in Subchapters H and I of this chapter to which the board is a party. (55th Legis., Ch. 425, Sec. 12, subsec. (p), as amended.)

§ 11.025. Rules and Regulations

(a) The board shall make rules prescribing the form and content of applications for financial assistance.

(b) The board and the commission, separately or jointly, may make reasonable and necessary rules and regulations to implement and effectuate the provisions of this chapter.

(c) These rules and regulations, and any amendments to them, shall be submitted to the attorney general for his approval and shall be filed with the secretary of state. (55th Legis., Ch. 425, Sec. 12, subsec. (q); Sec. 19, as amended.)

§ 11.026. Reports to Governor

The board shall make biennial reports in writing to the governor. Each report shall include data on the activities of the board and shall recommend any legislation the board considers necessary or desirable. (55th Legis., Ch. 425, Sec. 23, as amended.)

[Sections 11.027 to 11.060 reserved for expansion]

**SUBCHAPTER C. DUTIES OF EXECUTIVE DIRECTOR
AND STAFF**

Section 11.061. Responsibility of Executive Director

The executive director, under the policies of the board, shall manage the administrative affairs of the board, serve as chief administrative officer for the board, and employ necessary personnel. In addition to other duties and assignments made by the board, the executive director is responsible to the board for the performance by the staff of the duties described in this subchapter. (55th Legis., Ch. 425, Sec. 21, sen. 5, 9 (part).)

§ 11.062. Studies, Investigations, Surveys

(a) The staff shall make studies, investigations, and surveys of the occurrence, quantity, quality, and availability of the surface water and groundwater of this state. For these purposes the staff shall collect, receive, analyze, and process basic data concerning the water resources of the state.

(b) The staff shall:

- (1) determine suitable locations for future water facilities including reservoir sites;
- (2) locate land best suited for irrigation;
- (3) make estimates of the cost of proposed irrigation works and the improvement of reservoir sites; and
- (4) examine and survey reservoir sites.

(c) The staff shall keep full and proper records of its work, observations, data, and calculations, all of which are the property of the state. (55th Legis., Ch. 425, Sec. 21, subdiv. (a), (c), as amended; 42nd Legis., Ch. 128, Sec. 5; R.S. Arts. 7524, 7527, 7528.)

(d) In performing its duties under this section, the staff shall assist the commission in carrying out the purposes and policies stated in Section 6.054 of this code. (New.)

§ 11.063. Engineering, Hydrologic, and Geologic Functions

The staff shall advise and assist the board with regard to engineering, hydrologic, and geologic matters concerning the water resources of the state. The staff shall evaluate, prepare, and publish engineering, hydrologic, and geologic data, information, and reports relating to the water resources of the state. (55th Legis., Ch. 425, Sec. 21, subdiv. (f), (h) (part), and (i), as amended.)

§ 11.064. Silt Load of Streams, Etc.

The staff shall determine the silt load of streams, make investigations and studies of the duty of water, and make surveys to determine the water needs of the distinct regional divisions of the watershed areas of the state. (55th Legis., Ch. 425, Sec. 21, subdiv. (g), as amended.)

§ 11.065. Studies of Underground Water Supply

The staff may make studies and investigations of the physical characteristics of water-bearing formations and of the sources, occurrence, quantity, and quality of the underground water supply of the state; and the staff may study and investigate feasible methods to conserve, preserve, improve, and supplement this supply. The work shall first be undertaken in areas where, in the judgment of the board, the greatest need exists; and in determining the need the board shall consider all beneficial uses essential to the general welfare of the state. Water-bearing formations may be explored by coring or other mechanical or electrical

means when the area to be investigated has more than a local influence on water resources. (41st Legis., 2nd C.S., Ch. 37, Sec. 1, as amended.)

§ 11.066. Pollution of Red River Tributaries

Within the limits of available money and facilities, the staff shall study salt springs, gypsum beds, and other sources of natural pollution of the tributaries of the Red River, and shall study means of eliminating this natural pollution and preventing it from reaching the Red River. (55th Legis., Ch. 362, Sec. 1.)

§ 11.067. Topographic and Geologic Mapping

The staff shall carry out the program for topographic and geologic mapping of the state. (55th Legis., Ch. 425, Sec. 21, subdiv. (d), as amended.)

§ 11.068. Soil Resource Planning

The staff may contract with the State Soil Conservation Board for joint investigation and research in the field of soil resource planning. The State Soil Conservation Board may appoint a representative to advise and work with the Texas Water Development Board and its staff. (55th Legis., 1st C.S., Ch. 11, Sec. 3(a)(4) (part); and Sec. 3(b) (part).)

§ 11.069. Cooperative Agreements

With the approval of the board, the staff may negotiate and execute contracts with persons or with federal, state, or local agencies for joint or cooperative studies and investigations of the occurrence, quantity, and quality of the surface water and groundwater of the state; the topographical mapping of the state; and the collection, processing, and analysis of other basic data relating to the development of the water resources of the state and for the administration and performance of these contracts. (55th Legis., Ch. 425, Sec. 21, subdiv. (b), as amended.)

§ 11.070. Centralized Data Bank

The staff shall create a centralized data bank incorporating all hydrological data collected by state agencies. (55th Legis., Ch. 425, Sec. 21, subdiv. (j), as amended.)

§ 11.071. Appearance at Hearings

Designated staff members may appear and present evidence at public hearings held by the commission and by federal, state, and local agencies on matters affecting the public interest in the state's water resources. The staff shall receive and examine all engineering plans and proposals coming before the commission and may appear before the commission at any hearing concerning these plans or proposals. (55th Legis., Ch. 425, Sec. 21, subdiv. (h) (part), as amended.)

§ 11.072. Master Plans of Districts, Etc.

The staff shall review and analyze master plans and other reports of conservation districts, river authorities, and state agencies, and shall make its recommendations to the board in all cases where approval of the board is required by law or is requested by a district, authority, or agency. (55th Legis., Ch. 425, Sec. 21, subdiv. (e), as amended.)

[Sections 11.073 to 11.100 reserved for expansion]

SUBCHAPTER D. PLANNING

Section 11.101. State Water Plan

(a) The board shall prepare, develop, and formulate a comprehensive state water plan.

(b) The board shall define and designate river basins and watersheds as separate units for the purpose of water development and interwatershed transfers.

(c) The board shall be governed in its preparation of the plan by a regard for the public interest of the entire state. The board shall direct its efforts toward the orderly development and management of water resources in order that sufficient water will be available at a reasonable cost to further the economic development of the entire state.

(d) The board shall also give consideration in the plan to the effect of upstream development on the bays, estuaries, and arms of the Gulf of Mexico, and to the effect of the plan on navigation. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 1, 3, 5, as amended.)

§ 11.102. Interbasin Water Transfer

The board shall not prepare or formulate a plan which contemplates or results in the removal of surface water from the river basin of origin if the water supply involved will be required for reasonably foreseeable water supply requirements within the river basin of origin during the next ensuing 50-year period, except on a temporary, interim basis. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 2, as amended.)

§ 11.103. Hearing on Preliminary Plan

(a) After the board completes its preliminary planning of the water resources development within a river basin, the board, or the executive director at the direction of the board, shall hold a public hearing, after notice, at some central location within the river basin. If the proposed plan involves the transfer of water from one basin to another, the hearing shall be held at some location convenient to the areas affected.

(b) The board shall present its proposed plan of development and hear evidence for and against the plan.

(c) After the hearing the board shall consider the effect the plan will have on the present and future development, economy, general welfare, and water requirements of the river basin or the areas affected. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 4, 6, as amended.)

§ 11.104. Hearing on Completed State Water Plan

When the board has prepared and examined the completed plan, the commission, at the request of the board, shall hold a public hearing on the plan to determine whether or not it gives adequate consideration to the protection of existing water rights in this state and whether or not it takes into account modes and procedures for the equitable adjustment of water rights affected by the plan. After the hearing and on notification of affirmative findings by the commission, the board shall formally adopt the state water plan. A majority vote is necessary for adoption. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 7, 8, 9, as amended.)

§ 11.105. Effect of Plan

(a) The state water plan, as formally adopted by the board, shall be a flexible guide to state policy for the development of water resources in this state.

(b) The commission shall take the plan into consideration in matters coming before it but is not bound by the plan.

(c) Nothing in the state water plan or any amendment or modification of the plan affects any vested right existing before August 30, 1965. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 10, 11, 12, as amended.)

§ 11.106. Amendment of Plan

(a) The board shall amend or modify the plan as experience and changed conditions require. The commission, when requested to do so by the board, shall hold a public hearing on any amendment or modification in the manner and for the purposes provided by Section 11.104 of this code.

(b) Any amendment or modification adopted by the board becomes a part of the plan. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 13, 14, as amended.)

§ 11.107. Federal Assistance in Financing Plan

The board may take all necessary action to qualify for federal assistance in financing the development and improvement of the plan. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 15, as amended.)

[Sections 11.108 to 11.140 reserved for expansion]

SUBCHAPTER E. WATER DEVELOPMENT BONDS

Section 11.141. Issuance of Water Development Bonds

The board, by resolution, from time to time may provide for the issuance of negotiable bonds in an aggregate amount not to exceed \$200 million pursuant to the provisions of Article III, Section 49-c, of the Texas Constitution. On two-thirds vote of each House of the Legislature, the board, by resolution, may issue additional negotiable bonds in an aggregate amount not to exceed \$200 million, pursuant to the provisions of Article III, Section 49-d, of the Texas Constitution. (55th Legis., Ch. 425, Sec. 4, subsec. (a), as amended; 59th Legis., Ch. 221.)

§ 11.142. Description of Bonds

The bonds shall be on a parity and shall be called Texas Water Development Bonds. The board may issue them in one or several installments and shall date the bonds of each issue. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 1, 3, 4 (part), as amended.)

§ 11.143. Sale Price of Bonds

The board may not sell an installment or series of bonds for an amount less than the face value of all of the bonds comprising the installment or series with accrued interest from their date of issuance. (55th Legis., Ch. 425, Sec. 8, sen. 1 (part).)

§ 11.144. Interest on Bonds

The bonds of each issue shall bear interest payable annually or semiannually at the option of the board. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 4 (part), as amended.)

§ 11.145. Form, Denomination, Place of Payment

The board shall:

- (1) determine the form of the bonds, including the form of any interest coupons to be attached;
- (2) fix the denomination of the bonds; and
- (3) fix the places of payment of the principal and interest. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 5, as amended.)

§ 11.146. Maturity of Bonds

The bonds of each issue shall mature, serially or otherwise, not more than 50 years from their date of issuance. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 4 (part), as amended.)

§ 11.147. Redemption Before Maturity

In the resolution providing for the issuance of bonds, the board may fix the price, terms, and conditions for redemption of bonds before maturity. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 4 (part), as amended.)

§ 11.148. Registered and Bearer Bonds

The resolution may provide for registration of the bonds as to ownership, successive conversion and reconversion from registered to bearer bonds, and successive conversion and reconversion from bearer to registered bonds. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 10, as amended.)

§ 11.149. Notice of Bond Sale

After the board decides to call for bids for the sale of bonds, the board shall publish an appropriate notice of the sale at least one time in one or more recognized financial publications of general circulation published within the state and one or more recognized financial publications published outside the state. (55th Legis., Ch. 425, Sec. 7, sen. 1, 2, 3, as amended.)

Amended by Acts 1971, 62nd Leg., p. 1773, ch. 518, § 21, eff. May 31, 1971.

§ 11.150. Competitive Bids

The board shall sell the bonds only after competitive bidding to the highest and best bidder. The board may reject any or all bids. (55th Legis., Ch. 425, Sec. 8, sen. 1 (part), 2.)

§ 11.151. Security for Bids

The board shall require every bidder, except administrators of state funds, to include with the bid an exchange or cashier's check for a sum the board considers adequate as a forfeit guaranteeing acceptance of and payment for all bonds covered by the bids and accepted by the board. (55th Legis., Ch. 425, Sec. 7, sen. 4, as amended.)

Amended by Acts 1971, 62nd Leg., p. 1774, ch. 518, § 21, eff. May 31, 1971.

§ 11.152. Approval of Bonds; Registration

Before bonds are delivered to the purchasers, the bonds and the record pertaining to their issuance shall be submitted to the attorney general for his approval. When the attorney general's approval is obtained, the bonds shall be registered in the office of the state comptroller. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 11, 12, as amended.)

§ 11.153. Execution of Bonds

The bonds shall be executed on behalf of the board as general obligations of the state in the following manner: The chairman of the board and the development fund manager shall sign the bonds; the board shall impress its seal on the bonds; the governor shall sign the bonds; and the secretary of state shall attest the bonds and impress on them the state seal. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 6, as amended.)

§ 11.154. Facsimile Signatures and Seals

The resolution authorizing the issuance of an installment or series of bonds may prescribe the extent to which the board, in executing the bonds and appurtenant coupons, may use facsimile signatures and facsimile seals instead of manual signatures and manually impressed seals. Interest coupons may be signed by the facsimile signatures of the chairman of the board and the development fund manager. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 7, 8, as amended.)

§ 11.155. Signature of Former Officer

If an officer whose manual or facsimile signature appears on a bond or whose facsimile signature appears on any coupon ceases to be an officer before the bond is delivered, the signature is valid and sufficient for all purposes as if he had remained in office until the delivery had been made. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 9, as amended.)

§ 11.156. Bonds Incontestable

After approval by the attorney general, registration by the comptroller, and delivery to the purchasers, the bonds are incontestable and constitute general obligations of the state. (55th Legis., Ch. 425, Sec. 4, subsec. (d), sen. 1, as amended.)

§ 11.157. Payment by Treasurer

The state treasurer shall pay the principal on the bonds as they mature and the interest as it becomes payable. (55th Legis., Ch. 425, Sec. 10-C, sen. 2.)

§ 11.158. Payment Enforceable by Mandamus

Payment of the bonds and performance of official duties prescribed by Article III, Section 49-c, of the Texas Constitution and by the provisions of this subchapter may be enforced in any court of competent jurisdiction by mandamus or other appropriate proceeding. (55th Legis., Ch. 425, Sec. 4, subsec. (d), sen. 2, as amended.)

§ 11.159. Refunding Bonds

The board may provide by resolution for the issuance of refunding bonds to refund outstanding bonds issued under this chapter and their accrued interest. The board may sell these bonds and use the proceeds to retire the outstanding bonds issued under this chapter or the board may exchange the refunding bonds for the outstanding bonds. The issuance of the refunding bonds, their maturity, the rights of the bondholders, and the duties of the board with respect to refunding bonds are governed by the provisions of this chapter relating to original bonds, to the extent that they may be made applicable. (55th Legis., Ch. 425, Sec. 5.)

§ 11.160. Bonds Negotiable Instruments

The bonds issued under the provisions of this chapter are negotiable instruments under the laws of this state. (55th Legis., Ch. 425, Sec. 4, subsec. (e), as amended.)

§ 11.161. Bonds not Taxable

Bonds issued under this chapter, the income from the bonds, and the profit made on their sale are free from taxation within the state. (55th Legis., Ch. 425, Sec. 6, sen. 3.)

§ 11.162. Authorized Investments

Bonds issued under this chapter are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) building and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state. (55th Legis., Ch. 425, Sec. 6, sen. 1.)

§ 11.163. Security for Deposit of Funds

Bonds issued under this chapter, when accompanied by all appurtenant unmatured coupons, are lawful and sufficient security for all deposits of funds of the state or of a city, town, village, county, school district, or any other agency or political subdivision of the state, at the par value of the bonds. (55th Legis., Ch. 425, Sec. 6, sen. 2.)

§ 11.164. Mutilated, Lost, Destroyed Bonds

The board may provide for the replacement of any mutilated, lost, or destroyed bond. (55th Legis., Ch. 425, Sec. 4, subsec. (f), as amended.)

[Sections 11.165 to 11.200 reserved for expansion]

SUBCHAPTER F. FUNDING PROVISIONS**Section 11.201. Disposition of Money Received**

All money received by the board shall be deposited in the state treasury and credited to the proper special fund as provided in this subchapter. (55th Legis., Ch. 425, Sec. 9 (part).)

§ 11.202. Water Development Fund

(a) The Texas Water Development Fund, referred to as the "development fund," is a special revolving fund in the state treasury.

(b) All proceeds derived from the sale of water development bonds (except accrued interest) and other money for deposit as provided in this chapter, shall be credited to the development fund.

(c) The development fund may be used for any project and in any manner consistent with the provisions of the constitution, but the development fund may not be used for retail distribution or for transportation of water solely to retail purchasers. (55th Legis., Ch. 425, Sec. 9, subdiv. (b); Sec. 10-A, subsec. (c) (part); Sec. 12, subsec. (a), sen. 1 (part), as amended.)

§ 11.203. Water Development Clearance Fund

The Texas Water Development Clearance Fund, referred to as the "clearance fund," is a special fund in the state treasury. Transfers shall be made from this fund as provided by this subchapter. (55th Legis., Ch. 425, Sec. 9, subdiv. (a) (part).)

§ 11.204. Interest and Sinking Fund

The Texas Water Development Bonds Interest and Sinking Fund, referred to as the "interest and sinking fund," is a special fund in the state treasury into which there shall be paid, from sources specified in this chapter, amounts sufficient to:

- (1) pay the interest coming due on all outstanding water development bonds during the ensuing fiscal year;
- (2) pay the principal on all bonds that mature during the ensuing fiscal year, plus collection charges and exchanges on the bonds; and
- (3) establish a reserve equal to the average annual principal and interest requirements on all outstanding bonds. (55th Legis., Ch. 425, Sec. 9, subdiv. (c).)

§ 11.205. Administrative Fund

The Texas Water Development Board Administrative Fund, referred to as the "administrative fund," is a special fund in the state treasury. From sources specified in this chapter, money shall be credited to this fund in amounts sufficient to pay the administrative expenses of the board as authorized by legislative appropriation. (55th Legis., Ch. 425, Sec. 9, subdiv. (d).)

§ 11.206. Combined Facilities Operation and Maintenance Fund

(a) The Combined Facilities Operation and Maintenance Fund is a special fund in the state treasury.

(b) Money received from the sale of water, standby service, and the lease of land needed for operation and maintenance of facilities shall be credited to this fund. Any of the money which is not needed for operation and maintenance of facilities may be credited to the interest and sinking fund or used to meet contractual obligations incurred by the board in acquiring facilities. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 12, 13; subsec. (o), sen. 3, as amended.)

§ 11.207. Credits to Clearance Fund

Except for proceeds from the sale of water development bonds and proceeds from the sale of bonds of political subdivisions as provided by Section 11.415 of this code, all money received by the board in any fiscal year, including all amounts received as repayment of loans to political subdivisions and interest on those loans, shall be credited to the clearance fund. Money in the clearance fund may be transferred at any time to the interest and sinking fund until the reserve in that fund is equal to the average annual principal and interest requirements on all outstanding water development bonds. (55th Legis., Ch. 425, Sec. 10-B, sen. 1, 2, as amended; Sec. 9, subdiv. (a) (part).)

§ 11.208. Transfers at End of Fiscal Year

Not later than 15 days after the end of each fiscal year, any money credited to the clearance fund at the end of the fiscal year shall be transferred to the other special funds as prescribed by Sections 11.209–11.212 of this code. (55th Legis., Ch. 425, Sec. 10-B, sen. 3 (part), as amended.)

§ 11.209. Transfers to Interest and Sinking Fund

(a) The board shall determine:

- (1) the amount of interest coming due on all bonds outstanding;
- (2) the amount of principal of bonds maturing and becoming payable during the fiscal year; and

- (3) the average annual principal and interest requirements on all outstanding bonds.
- (b) The comptroller shall transfer to the interest and sinking fund, after taking into account any money and securities on deposit in the interest and sinking fund, an amount necessary to pay:
- (1) all principal and interest maturing on the bonds during the fiscal year;
 - (2) all collection charges and exchanges on the bonds; and
 - (3) the money sufficient to establish and maintain an additional reserve equal to the average annual principal and interest requirements on all outstanding bonds. (55th Legis., Ch. 425, Sec. 10-B, subdiv. (a), sen. 1, 2, as amended.)

§ 11.210. Additional Funds for Payment of Bonds

If the amount transferred from the clearance fund plus the money and securities in the interest and sinking fund are insufficient to pay the interest coming due and the principal maturing on the bonds during the fiscal year, then after the transfer to the interest and sinking fund of as much money as is available in the clearance fund, the state treasurer shall transfer out of the first money coming into the treasury, not otherwise appropriated by the constitution, the amount required to pay principal and interest on the bonds during the fiscal year. (55th Legis., Ch. 425, Sec. 10-B, subdiv. (a), sen. 3, as amended.)

§ 11.211. Transfers to Administrative Fund

If money remains in the clearance fund after making the transfers provided in Section 11.209 of this code, then to the extent possible the comptroller shall transfer to the administrative fund an amount sufficient to cover the legislative appropriation for administrative expenses of the board for the fiscal year. (55th Legis., Ch. 425, Sec. 10-B, subdiv. (b), as amended.)

§ 11.212. Transfers to Development Fund

If money remains in the clearance fund after making the transfers provided in Sections 11.209 and 11.211 of this code, the comptroller shall transfer the balance to the development fund at the end of each fiscal year. The board may use this money for any purpose for which it may use the proceeds of water development bonds. (55th Legis., Ch. 425, Sec. 10-B, subdiv. (c), as amended.)

§ 11.213. Investment of Reserve Money

The board may invest any money credited to the reserve portion of the interest and sinking fund in:

- (1) direct obligations of the United States;
- (2) other obligations unconditionally guaranteed by the United States;
- (3) bonds of the State of Texas; and
- (4) bonds of counties, cities, and other political subdivisions of the state, except bonds issued by a political subdivision to finance a project described by this chapter. (55th Legis., Ch. 425, Sec. 10-D, sen. 1 (part), as amended.)

§ 11.214. Limitation on Board Investment

The board is bound to the extent that the resolution authorizing the issuance of the bonds further restricts the investment of money in bonds of

the United States. (55th Legis., Ch. 425, Sec. 10-D, sen. 1 (part), as amended.)

§ 11.215. Interest and Sinking Fund Investments

The board may invest the money in the interest and sinking fund, except the money in the reserve portion of the fund, only in direct obligations of the United States or obligations unconditionally guaranteed by the United States that are scheduled to mature prior to the date the board must have money available for its intended purpose. (55th Legis., Ch. 425, Sec. 10-D, sen. 1 (part), as amended.)

§ 11.216. Development Fund Investments

Surplus money in the development fund that is not needed for at least 90 days shall be invested in direct obligations of the United States or in other obligations unconditionally guaranteed by the United States maturing on or before the contemplated date on which the money will be needed. (55th Legis., Ch. 425, Sec. 10-D, sen. 2, as amended.)

§ 11.217. Sale of Securities

All of the bonds and obligations owned in the interest and sinking fund or in the development fund are defined as securities. The board may sell securities owned in the interest and sinking fund or in the development fund at the governing market price. (55th Legis., Ch. 425, Sec. 10-D, sen. 3, 4, as amended.)

§ 11.218. Transfers to be Made by Comptroller

The comptroller shall make the transfers required by this subchapter. (55th Legis., Ch. 425, Sec. 10-C, sen. 1.)

[Sections 11.219 to 11.250 reserved for expansion]

**SUBCHAPTER G. COOPERATION WITH
FEDERAL GOVERNMENT**

Section 11.251. Designation of Board

The board is designated as the state agency to cooperate with the Corps of Engineers of the United States Army and the Bureau of Reclamation of the United States Department of the Interior in the planning of water resource development projects in this state. (55th Legis., Ch. 425, Sec. 24, subsec. (a), as amended.)

§ 11.252. Local Sponsors for Projects

(a) When a project is proposed for planning or development by the board, the Corps of Engineers of the United States Army, or the Bureau of Reclamation of the United States Department of the Interior, any political subdivision may apply to the commission for designation as the cooperating local sponsor of the project.

(b) In the application the applicant shall:

(1) describe the purposes of the project;

(2) state the reasons for the application, the contemplated use of water the applicant might derive from the project if a permit for the use is subsequently granted by the commission; and

(3) cite the contributions the applicant is prepared to make to the planning or development of the project.

(c) No application for designation as a local sponsor shall cover more than one proposed project.

(d) The commission shall prescribe the form to be used in applications for designation as cooperating local sponsor. Before accepting the application, the commission may require that the applicant complete the prescribed form.

(e) Before making any designation of local sponsorship, the commission shall set the application for hearing and give public notice of the hearing. Any interested party may appear and be heard for or against the designation of the applicant as project sponsor.

(f) More than one cooperating local sponsor may be designated for each project, but each applicant must comply with the provisions of this section.

(g) After a public hearing, the commission, by written order, shall grant or reject the application and shall state its reasons. The commission may set a reasonable time period for any sponsorship designation.

(h) In granting any future permit for use of water stored in a project for which it has designated a local sponsor, the commission shall fully recognize that sponsor's contributions to the planning and development of the project.

(i) To the extent that no local cooperator is prepared to undertake local sponsorship of a federal project in whole or in part, or to the extent that the board has an interest in the project, the board may be designated as sponsor of the project or as an additional cooperating sponsor. (55th Legis., Ch. 425, Sec. 24, subsec. (b), (c), as amended.)

[Sections 11.253 to 11.300 reserved for expansion]

SUBCHAPTER H. ACQUISITION AND DEVELOPMENT OF FACILITIES

Section 11.301. Authorized projects

The board may use the development fund for projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement, in whole or in part, of any existing or proposed project. (55th Legis., Ch. 425, Sec. 12, subsec. (a), sen. 1 (part); subsec. (b), sen. 1 (part), as amended.)

§ 11.302. Joint Ventures

The board may act singly or in a joint venture in partnership with any person or entity, including any agency or political subdivision of this state, or with another state or its political subdivisions, or with the United States, or with a foreign nation, to the extent permitted by law. (55th Legis., Ch. 425, Sec. 12, subsec. (b), sen. 1 (part), as amended.)

§ 11.303. Permits Required

The board shall obtain permits from the commission for the storage, transportation, and application to beneficial use of water in reservoirs and associated works constructed by the board. (55th Legis. Ch. 425, Sec. 12, subsec. (a), sen. 2; subsec. (c), sen. 2, as amended.)

§ 11.304. Storing Water

The board may use any reservoir acquired, leased, constructed, reconstructed, developed, or enlarged by it under this chapter to store unappropriated state water and other water acquired by the state. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 1, as amended.)

§ 11.305. Board Findings

Before acquiring storage facilities in any reservoir, the board shall find affirmatively that:

- (1) it is reasonable to expect that the state will recover its investment in the facilities;
- (2) the cost of the facilities exceeds the current financing capabilities of the area involved, and the facilities cannot be reasonably financed by local interests without state participation;
- (3) the public interest will be served by acquisition of the facilities; and
- (4) the facilities, to be constructed or reconstructed, contemplate the optimum development of the site which is reasonably reserved under all existing circumstances of the site. (55th Legis. Ch. 425, Sec. 12, subsec. (c), sen. 1, as amended.)

§ 11.306. Facilities Wanted by Political Subdivision

The board shall not acquire any facility to the extent that a political subdivision:

- (1) is willing and reasonably able to finance the acquisition of the facility;
- (2) has qualified by obtaining the necessary permit; and
- (3) has proposals that are consistent with the objectives of the state water plan. (55th Legis., Ch. 425, Sec. 12, subsec. (b), sen. 2, as amended.)

§ 11.307. Contracts: General Authority

The board may execute contracts to the full extent that contracts are constitutionally authorized and not limited, for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, operation, or maintenance, singularly or in any combination, of any existing or proposed project. (55th Legis., Ch. 425, Sec. 12, subsec. (d), sen. 1, as amended.)

§ 11.308. Specific Contracts Authorized

Contracts authorized by Section 11.307 of this code shall include, but are not limited to, the following:

- (1) contracts secured by the general credit of the state which shall constitute general obligations of the state in the same manner and with the same effect as water development bonds and principal and interest on these contracts shall be paid in the manner provided for payment of principal and interest on state bonds by the constitution;
- (2) federal grants or grants from other sources;
- (3) contracts which may be fully or partially secured by water purchase or repayment contracts executed by political subdivisions of the state for purchase of water and facilities necessary to supply present and future regional and local water requirements;
- (4) contracts with any person, including but not limited to the United States, local public agencies, power cooperatives, and investor-owned utilities, for financing, constructing, and operating facilities to operate and deliver pumping energy required for projects; and
- (5) contracts for goods and services necessary for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, implementation, operation, or maintenance, of any existing or proposed project or portion of the project. (55th Legis., Ch. 425, Sec. 12, subsec. (d), sen. 2, as amended.)

§ 11.309. Contracts: Facilities Acquired for a Term of Years

If facilities are acquired for a term of years, the board may include in the contract provisions for renewal that will protect the state's investment. (55th Legis., Ch. 425, Sec. 12, subsec. (d), sen. 3, as amended.)

§ 11.310. Maintenance Contracts

The board may execute contracts for the operation and maintenance of the state's interest in any project and may agree to pay reasonable operation and maintenance charges allocable to the state interest. (55th Legis., Ch. 425, Sec. 12, subsec. (m), as amended.)

§ 11.311. Recreational Facilities

The board may execute contracts with the United States, and with state agencies and political subdivisions, and with others to the extent authorized, for the development and operation of recreational facilities at any project in which the state has acquired an interest. Income received by the board under these contracts may be used for the same purposes as income from the sale of water. The legislature may appropriate money for the development and operation of recreational facilities at projects in which the state has acquired an interest. (55th Legis., Ch. 425, Sec. 12, subsec. (n), as amended.)

[Sections 11.312 to 11.350 reserved for expansion]

SUBCHAPTER I. SALE OR LEASE OF FACILITIES**Section 11.351. Board May Sell or Lease Projects**

The board may sell, transfer, or lease, to the extent of its ownership, a project acquired, constructed, reconstructed, developed, or enlarged with money from the water development fund. (55th Legis., Ch. 425, Sec. 12, subsec. (e), sen. 1 (part), as amended.)

§ 11.352. Permit Required

Before the board grants the application to buy, receive, or lease the facilities, the applicant shall first secure a permit for water use from the commission. If the facilities are to be leased, the permit may be for a term of years. (55th Legis., Ch. 425, Sec. 12, subsec. (e), sen. 1 (part), as amended.)

§ 11.353. Permit: Paramount Consideration of Commission

In passing on an application for a permit under this subchapter, whether it proposes a use of water inside or outside the watershed of the impoundment, the commission shall give paramount consideration to recouping the state's investment in order to protect the public interest and promote the general welfare. (55th Legis., Ch. 425, Sec. 12, subsec. (e), sen. 2, as amended.)

§ 11.354. Contract Must Be Negotiated

The commission shall not issue the permit until the applicant has executed a contract with the board for acquisition of the facilities. (55th Legis., Ch. 425, Sec. 12, subsec. (e), sen. 3, as amended.)

§ 11.355. Reservoir Land

The board may lease acquired reservoir land until construction of the dam is completed without the necessity of a permit issued by the commission. (55th Legis., Ch. 425, Sec. 12, subsec. (e), sen. 4, as amended.)

§ 11.356. Price of Sale

The price of the sale or transfer of a state facility, other than a facility acquired under a contract, shall be the sum of the direct cost of acquisition, plus an interest charge computed at a rate of one-half of one percent a year from the date of purchase or acquisition by the board to the date of sale, plus interest annually at the cumulative average effective rate on all water development bonds sold up to the date of the sale, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it. (55th Legis., Ch. 425, Sec. 12, subsec. (f), sen. 4, as amended.)

§ 11.357. Price of Sale: Facilities Acquired under Contracts

(a) The price of the sale or transfer of a facility acquired under a contract shall be the sum of the direct cost of acquisition, plus an interest charge computed at a rate of one-half of one percent per year from the date of acquisition of the facility to the date of sale or transfer, plus interest at the cumulative average effective rate on all water development bonds sold up to the date of the sale or transfer for each year or portion of a year for which the board paid interest to the other party to the contract, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) If, in transferring any contract, the board remains in any way directly, conditionally, or contingently liable for the performance of any part of the contract, then the transferee, in addition to the payments prescribed by Subsection (a) of this section, shall pay to the board annually one-half of one percent of the remaining amount owed to the other party to the contract, and shall continue these payments until the board is fully released from the contract. (55th Legis., Ch. 425, Sec. 12, subsec. (g), as amended.)

§ 11.358. Costs Defined

With reference to the sale of a state facility, "direct cost of acquisition" means the principal amount the board has paid or agreed to pay for on the facility up to the date of the sale. (55th Legis., Ch. 425, Sec. 12, subsec. (f), sen. 1, 2, 3, as amended.)

§ 11.359. Lease Payments

In leasing a state facility for a term of years, the board shall require annual payments not less than the total of:

- (1) the annual principal and interest requirements applicable to the debt incurred by the state in acquiring the facility; and
- (2) the state's annual cost for operation, maintenance, and rehabilitation of the facility. (55th Legis., Ch. 425, Sec. 12, subsec. (h), as amended.)

§ 11.360. Sale or Lease: Condition Precedent

(a) No sale, transfer, or lease of a state facility is valid unless the board first makes the following affirmative findings:

- (1) that the applicant has a permit granted by the commission;
- (2) that the sale, transfer, or lease will contribute to the conservation and development of the water resources of the state; and

(3) that the consideration for the sale, transfer, or lease is fair, just, and reasonable and in full compliance with the law.

(b) The consideration for any such sale or transfer may be either money or revenue bonds, which revenue bonds, for the purposes hereof, shall be deemed the same as money.

(c) The amount of money shall be equal to the price for purchasing the facilities as prescribed by the provisions of Section 11.357 of this code, or if revenue bonds shall constitute the consideration, the principal amount of such revenue bonds shall be equal to the price for purchasing the facilities as prescribed by the provisions of Section 11.357 of this code and such revenue bonds shall bear interest at the rate prescribed in Section 11.409 of this code with regard to bonds purchased with the proceeds of the Texas Water Development Fund. (55th Legis., Ch. 425, Sec. 12, subsec. (i), as amended.)

Amended by Acts 1971, 62nd Leg., p. 1974, ch. 612, Art. 1, § 2, eff. Sept. 1, 1971.

§ 11.361. Disposition of Proceeds

(a) The money received from any sale, transfer, or lease of facilities as cash, or in the case of a sale or transfer involving revenue bonds, the money received as matured interest or principal on the bonds shall be used to pay the principal of and interest on water development bonds or to meet contractual obligations incurred by the board. The money shall be collected and credited to the proper special fund as is money received in payment of principal and interest on loans to political subdivisions under this chapter, taking into consideration the manner in which the facilities were acquired.

(b) When enough money has been collected to pay all outstanding indebtedness, including the principal of all state bonds and contractual obligations and the full amount of interest to accrue on these debts, the board may use any further amounts received from the sale, transfer, or lease of facilities to acquire additional facilities or to provide assistance to political subdivisions for water supply projects. ((S.B. No. 29)) (55th Legis., Ch. 425, Sec. 12, subsec. (j), as amended.)

Amended by Acts 1971, 62nd Leg., p. 1975, ch. 612, Art. 1, § 2, eff. Sept. 1, 1971.

§ 11.362. Sale of Stored Water

The board may sell any unappropriated public water of the state and other water acquired by the state that is stored by or for it. The price will be determined by the board. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 2, as amended.)

§ 11.363. Permit

(a) The board may not sell the water stored in a facility to any person who has not obtained a permit from the commission. The rights of the applicant in the water are governed by the terms and conditions of the permit. The permit may be for a term of years.

(b) Whether the application for a permit involves a proposed use of water inside or outside the watershed of the impoundment, the commission shall give paramount consideration to recouping the state's investment in order to protect the public interest and promote the general welfare.

(c) The permit shall be conditioned on continued payment of the obligations assumed under the contract with the board and may provide for cancellation at any time on breach of the contract. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 3, 4, 5, 6, 7, as amended.)

§ 11.364. Sale Contract: Provisions, Limitations

(a) The board may determine the consideration and other provisions to be included in water sale contracts, but the consideration and other provisions shall be fair, reasonable, and nondiscriminatory. The board may include charges for standby service, which means holding water and conservation storage space for use and for actual delivery of water.

(b) The board shall make the same determinations with respect to the sale of water as are required in Section 11.360 of this code with respect to the sale or lease of facilities.

(c) The board shall not compete with any political subdivision in the sale of water when this competition jeopardizes the ability of the political subdivision to meet obligations incurred to finance its own water supply projects. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 8, 9, 10, 11, as amended.)

§ 11.365. Emergency Releases of Water

Unappropriated water and other water of the state stored in any facility acquired by and under the control of the board may be released without charge to relieve any emergency condition arising from drought, severe water shortage, or public calamity, if the Texas Water Rights Commission first determines the existence of the emergency and requests the board to release water. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 14, as amended.)

§ 11.366. Preferences

The board shall give political subdivisions a preferential right, but not an exclusive right, to purchase, acquire, or lease facilities, and to purchase water from facilities. Preferences shall be given in these respects in accord with the provisions of Section 5.122 of this code relating to preferences in the appropriation and use of state water. The board and the Texas Water Rights Commission shall coordinate their efforts to meet these objectives and to assure that the public water of this state, which is held in trust for the use and benefit of the public, will be conserved, developed, and utilized in the greatest practicable measure for the public welfare. (55th Legis., Ch. 425, Sec. 12, subsec. (1), as amended.)

§ 11.367. Lease of Land Prior to Project Construction

The board may lease tracts of land acquired for project purposes for a term of years for any purpose not inconsistent with ultimate project construction. The lease shall be scheduled to expire before initiation of project construction. (55th Legis., Ch. 425, Sec. 12, subsec. (o), sen. 1, 2 (part), as amended.)

§ 11.368. Lease Contributions Equivalent to Taxes

The lease may provide for contribution by the lessee to units of local government of amounts equivalent to ad valorem taxes or special assessments. (55th Legis., Ch. 425, Sec. 12, subsec. (o), sen. 2 (part), as amended.)

[Sections 11.369 to 11.400 reserved for expansion]

SUBCHAPTER J. ASSISTANCE TO POLITICAL SUBDIVISIONS**Section 11.401. Financial Assistance**

The development fund may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of projects, but to the extent that financial assistance is given by the board to an applicant for construction, acquisition, or improvement

of any waste water treatment plant, the financial assistance shall be considered as state matching funds for obtaining maximum federal grants for construction of treatment works. (55th Legis., Ch. 425, Sec. 11, sen. 1; Sec. 12, subsec. (a) sen. 1 (part), as amended.)
Amended by Acts 1971, 62nd Leg., p. 1774, ch. 518, § 21, eff. May 31, 1971.

§ 11.402. Application for Assistance

(a) In an application to the board for financial assistance, the applicant shall include:

- (1) the name of the political subdivision and its principal officers;
- (2) a citation of the law under which the political subdivision operates and was created;
- (3) the total cost of the project;
- (4) the amount of state financial assistance requested;
- (5) the plan for repaying the total cost of the project; and
- (6) any other information the board requires in order to perform its duties and to protect the public interest. (55th Legis., Ch. 425, Sec. 13.)

(b) The board may not accept an application for financial assistance unless it is submitted in affidavit form by the officials of the political subdivision. The board shall prescribe the affidavit form in its rules. The rules do not restrict or prohibit the board from requiring additional factual material from an applicant. (55th Legis., Ch. 425, Sec. 14, sen. 4, 5, as amended.)

§ 11.403. Certificate of Commission or Approval by Texas Water Quality Board

(a) Except as provided in Subsection (b) of this section, the board shall not deliver funds pursuant to an application for financial assistance until the political subdivision has furnished the board a resolution adopted by the Texas Water Rights Commission certifying:

- (1) that an applicant proposing surface water development has the necessary water right authorizing it to appropriate and use the water which the project will provide; or
- (2) that an applicant proposing underground water development has the right to use water that the project will provide.

(b) If an application includes a proposal for a waste water treatment plant, the part of the application relating to the waste water treatment plant does not need to be certified by the Texas Water Rights Commission, but the board may not deliver funds for the waste treatment plant until the political subdivision has furnished the board written evidence of approval of the plans for the waste water treatment plant by the Texas Water Quality Board or the executive director when authorized by the Texas Water Quality Board. (55th Legis., Ch. 425, Sec. 11, sen. 2, as amended.)
Amended by Acts 1971, 62nd Leg., p. 1774, ch. 518, § 21, eff. May 31, 1971.

§ 11.404. Considerations in Passing on Application

In passing on an application from a political subdivision for financial assistance, the board shall consider:

- (1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;
- (2) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the project, including interest;

(3) whether the political subdivision can reasonably finance the project without assistance from the state;

(4) the relationship of the project to the overall, statewide water needs; and

(5) the relationship of the project to the state water plan. (55th Legis., Ch. 425, Sec. 14, sen. 1, 2, as amended.)

§ 11.405. Approval of Application

The board by resolution may approve an application if, after considering the factors listed in Section 11.404 of this code and any other relevant factors, the board finds:

(1) that the public interest requires state participation in the project;

(2) that the political subdivision cannot reasonably finance the project without state assistance in the amount finally approved by the board; and

(3) that in its opinion the revenue or taxes pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision during the succeeding period of not more than 50 years. (55th Legis., Ch. 425, Sec. 14, sen. 3, as amended.)

§ 11.406. Method of Financial Assistance

The board may provide financial assistance by using money in the water development fund to purchase bonds or other securities issued by the political subdivision to finance the project. The board may purchase bonds or securities that are secondary or subordinate to other bonds or securities issued by the political subdivision to finance the same project. The board may purchase outstanding prior lien bonds previously issued by the political subdivision when this will avoid or reduce the necessity for issuing junior lien bonds for subsequent sale to the board. However, the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue. (55th Legis., Ch. 425, Sec. 15, sen. 1, 2, as amended.)

§ 11.407. Bond Maturity

The board may not purchase bonds or other securities which have a maturity date more than 50 years from the date of issuance. (55th Legis., Ch. 425, Sec. 15, sen. 3, as amended.)

§ 11.408. Repealed by Acts 1971, 62nd Leg., p. 1984, ch. 612, Art. 1, § 11

Section 11.408 provided: "The board may not purchase bonds or other securities of a political subdivision in excess of \$30 million for any one project."

§ 11.409. Interest Rate

(a) Except as provided in Subsection (b) of this section, bonds and securities purchased by the board with money in the development fund shall bear the weighted average effective interest rate on all water development bonds previously sold, plus one-half of one percent. The bonds shall bear coupons evidencing interest at a rate or combination of rates that will approximate the effective rate as nearly as the board deems practicable. The effective rate shall be determined by the payment of premiums or the deduction of discounts as necessary.

(b) Outstanding prior lien bonds purchased by the board under Section 11.406 of this code need not bear the interest rate provided in Subsection (a) of this section, but the board may pay such price or prices for outstanding prior lien bonds which in its discretion will ac-

comply with the objective of Section 11.406. (55th Legis., Ch. 425, Sec. 15, sen. 5, 6, as amended.)

Amended by Acts 1971, 62nd Leg., p. 1766, ch. 518, § 1, eff. May 31, 1971.

§ 11.410. Approval and Registration

The board shall not purchase any bonds or securities that have not been approved by the attorney general and registered by the comptroller. (55th Legis., Ch. 425, Sec. 15, sen. 7 (part), as amended.)

§ 11.411. Bonds Incontestable

The bonds or other securities issued by a political subdivision are valid, binding, and incontestable after:

- (1) approval by the attorney general;
- (2) registration by the comptroller; and
- (3) sale at not less than par value and accrued interest. (55th Legis., Ch. 425, Sec. 15, sen. 7 (part), as amended.)

§ 11.412. Security for Bonds

(a) Bonds purchased by the board shall be supported by:

- (1) all or part of the net revenue from the operation of the project;
- (2) taxes levied by the political subdivision for the purpose; or
- (3) a combination of taxes and net revenue, and revenue from other available sources.

(b) The board may require that the bonds be supported both by taxes and by net revenue from the operation of the project, in any ratio the board considers necessary to fully secure the investment. The board shall establish other conditions and requirements it considers to be consistent with sound investment practices and in the public interest. (55th Legis., Ch. 425, Sec. 17.)

(c) As used in this section, "net revenue" means gross revenue less the amount necessary to provide for principal, interest, and reserve requirements of bonds superior to those purchased by the board and the amount necessary to pay the cost of maintaining and operating the project. (55th Legis., Ch. 425, Sec. 16, sen. 1.)

§ 11.413. Default

(a) In the event of a default in payment of the principal or interest on bonds purchased by the board, a default in payment of amounts due under a loan agreement executed under the provisions of Section 7.10 of House Bill No. 1440, Acts of the 62nd Legislature, Regular Session, 1971,¹ or any other default as defined in the proceedings or indentures authorizing the issuance of the bonds, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the political subdivision or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought in a district court of Travis County.

(b) The provisions of this section are cumulative of any other rights or remedies to which the bondholders may be entitled. (55th Legis., Ch. 425, Sec. 16, sen. 2, 3, 4.)

Amended by Acts 1971, 62nd Leg., p. 1774, ch. 518, § 22, eff. May 13, 1971.

¹ Vernon's Ann.Civ.St. art. 7621d—1, § 7.10.

§ 11.414. Sale of Bonds by Board

(a) The board may sell or dispose of bonds purchased with money in the development fund. The board may not sell the bonds for less than par value and accrued interest.

(b) The board shall first offer the bonds at their par value plus accrued interest to the issuing political subdivision at least 30 days before the date of requesting competitive bids.

(c) If the political subdivision fails to give notice to the board of its desire to acquire the bonds at par value and accrued interest within the 30-day period, then the board shall give notice of the sale of the bonds, receive competitive bids, and conduct the sale, all in the manner provided for the sale of water development bonds. (55th Legis., Ch. 425, Sec. 15, sen. 8, 10, as amended.)

§ 11.415. Proceeds From Sale

The proceeds from the sale of political subdivision bonds held by the board shall be credited to the development fund, except that accrued interest shall be credited to the interest and sinking fund. (55th Legis., Ch. 425, Sec. 15, sen. 9, as amended.)

§ 11.416. Construction Contract Requirements

(a) The governing body of each political subdivision receiving financial assistance from the fund shall require in all contracts for the construction of a project:

(1) that payment be made in partial payments as the work progresses;

(2) that each partial payment shall not exceed 90 percent of the amount due at the time of the payment as shown by the engineer of the project; and

(3) that payment of the 10 percent remaining due upon completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings; and

(B) certification by the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices.

(55th Legis., Ch. 425, Sec. 18, sen. 1, 2, as amended.)

§ 11.417. Filing Construction Contract

The political subdivision shall file in the office of the board a certified copy of each construction contract it enters into for the construction of all or part of a project. Each contract shall contain or have attached to it the specifications, plans, and details of all work included in the contract. (55th Legis., Ch. 425, Sec. 18, sen. 6, 7, as amended.)

§ 11.418. Board Inspection of Projects

(a) The board may inspect the construction of a project at any time to assure that:

(1) the contractor is substantially complying with the engineering plans of the project as submitted when approval of the feasibility of the project was sought; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the board does not subject the state to any civil liability. (55th Legis., Ch. 425, Sec. 18, sen. 3, as amended.)

§ 11.419. Alteration of Plans

After board approval of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the

board authorizes the alteration. (55th Legis., Ch. 425, Sec. 18, sen. 4, as amended.)

§ 11.420. Certificate of Approval

The board may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

- (1) failure to construct the project according to the plans as the board approved them or altered with the board's approval;
- (2) failure to construct the works in accordance with sound engineering principles; or
- (3) failure to comply with any term of the contract. (55th Legis., Ch. 425, Sec. 18, sen. 5, as amended.)

[Sections 11.421 to 11.450 reserved for expansion]

SUBCHAPTER K. IMPROVEMENTS

Section 11.451. Purpose of Subchapter

The chief purpose of this subchapter is to provide for planning and marking out upon the ground all improvements necessary to reclaim for agricultural use all overflowed land, swampland, and other land in this state that is not suitable for agricultural use because of temporary or permanent excessive accumulation of water on or contiguous to the land. (R.S. Art. 7962.)

§ 11.452. Surveys; Planning

The board shall perform all preliminary work required in the process of planning or marking out upon the ground the most practical, permanent, economical, and equitable improvements or systems of improvements including levees, dikes, dams, canals, drains, waterways, reservoirs, and other improvements incidental to them. This work includes investigations, estimates, surveys, maps, reports, and publications, and any other work which is incidental to this. (R.S. Art. 7963.)

§ 11.453. Design of Improvements or System of Improvements

As far as possible, the improvements shall be designed with primary consideration to the topographic and hydrographic conditions, and in such a manner that each division of a project shall be a complete, united project forming a coordinate part of an ultimately finished series of projects, so constituted that the successful operation of each united project shall coordinate with the successful operation of other projects within the same hydraulic influence. (R.S. Art. 7964.)

§ 11.454. Location of Projects; Reports

The board may determine the location of the improvements or systems of improvements and the time and manner of making the results public. The board shall make records or publish reports describing the improvements or systems of improvements, and shall file in its office all final results that are of value to the state. (R.S. Arts. 7965, 7966.)

§ 11.455. Cooperation with Other Agencies

In performing its functions, the board may confer with federal and state agencies and with political subdivisions and may execute cooperative agreements with them. The board may cancel any such agreement on 10 days' notice to the other party. (R.S. Arts. 7967, 7968.)

§ 11.456. Advice to Districts

The board shall confer with districts requesting its technical advice on the adequate execution of proposed levee and drainage improvements. (R.S. Art. 7969.)

§ 11.457. Districts to File Information with Board

Immediately before having its bonds approved by the attorney general, each drainage district and levee improvement district shall file with the board, on forms furnished by the board, a complete record showing each step in the organization of the district, the amount of bonds to be issued, and a description of the area and boundaries of the district, accompanied by plans, maps, and profiles of improvements and the district engineer's estimates and reports on them. (R.S. Art. 7970.)

§ 11.458. Construction of Levee without Approval of Plans

(a) No person, corporation, or levee improvement district may construct, attempt to construct, cause to be constructed, maintain, or cause to be maintained, any levee or other such improvement on, along, or near any stream of this state that is subject to floods, freshets, or overflows, so as to control, regulate, or otherwise change the floodwater of the stream, without first obtaining approval of the plans by the board.

(b) Any person, corporation, or levee improvement district who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100.

(c) At the request of the board, the attorney general shall file suit in a district court of Travis County to enjoin any violation or threatened violation of this section.

(d) This section does not apply to structures authorized by the Texas Water Rights Commission. (55th Legis., Ch. 425, Sec. 21, subdiv. (m), as amended.)

[Sections 11.459 to 11.500 reserved for expansion]

SUBCHAPTER L. NAVIGATION FACILITIES**Section 11.501. Improvement of Streams and Canals and Construction of Facilities within Cypress Creek Drainage Basin**

The board may improve streams and canals and construct all waterways and other facilities necessary to provide for navigation within the Cypress Creek drainage basin which is located in the northeast portion of the state. (61st Legis., Ch. 157, Sec. 1, subsec. (a).)

§ 11.502. Long-Term Contracts with the United States

The board may execute long-term contracts with the United States or any of its agencies for the acquisition and development of improvements and facilities under Section 11.501 of this code. (61st Legis., Ch. 157, Sec. 1, subsec. (b).)

§ 11.503. Temporary Authority to Act for District

The board may act in behalf of a local district or districts until they can take over the project or projects in accordance with the board's agreement with the district or districts in acting as the sponsor. (61st Legis., Ch. 157, Sec. 1, subsec. (c).)

CHAPTER 14. WEATHER MODIFICATION**SUBCHAPTER A. GENERAL PROVISIONS****Section**

- 14.001. Short Title.
- 14.002. Definitions.

[Sections 14.003 to 14.010 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

- 14.011. Regulations—In General.
- 14.012. Regulations—Licenses and Permits.
- 14.013. Regulations—Safety.
- 14.014. Studies; Investigations; Hearings.
- 14.015. Advisory Committees.
- 14.016. Personnel.
- 14.017. Materials and Equipment.
- 14.018. Interstate Compacts.
- 14.019. Contracts, Cooperative Agreements, Etc.
- 14.020. Promotion of Research and Development.
- 14.021. Grants, Gifts, Etc.
- 14.022. Disposition of License and Permit Fees.
- 14.023. Oaths of Witnesses; Subpoenas.

[Sections 14.024 to 14.040 reserved for expansion]

SUBCHAPTER C. LICENSES AND PERMITS

- 14.041. License and Permit Required.
- 14.042. Exemptions.
- 14.043. Issuance of License.
- 14.044. License Fee.
- 14.045. Expiration Date.
- 14.046. Renewal License.

[Sections 14.047 to 14.060 reserved for expansion]

- 14.061. Issuance of Permit.
- 14.062. Permit Fee.
- 14.063. Scope of Permit.
- 14.064. Application and Notice of Intention..
- 14.065. Content of Notice.
- 14.066. Publication of Notice.
- 14.067. Proof of Publication; Affidavit.
- 14.068. Proof of Financial Responsibility.
- 14.069. Modification of Permit.
- 14.070. Scope of Activity.
- 14.071. Records and Reports.

[Sections 14.072 to 14.090 reserved for expansion]

SUBCHAPTER D. SANCTIONS

- 14.091. Suspension; Revocation; Refusal to Renew.
- 14.092. Hearing Required.
- 14.093. Record of Hearing.

[Sections 14.094 to 14.100 reserved for expansion]

Section

- 14.101. Immunity of State.
- 14.102. Private Legal Relationships.

[Sections 14.103 to 14.110 reserved for expansion]

- 14.111. Penalty.
- 14.112. Enforcement by Board.

SUBCHAPTER A. GENERAL PROVISIONS

Section 14.001. Short Title

This chapter may be cited as the Weather Modification Act. (60th Legis., Ch. 576, Sec. 1.)

§ 14.002. Definitions

As used in this chapter, unless the context requires a different definition:

(1) "board" means the Texas Water Development Board; (60th Legis., Ch. 576, Sec. 2, subdiv. 1.)

(2) "weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods, the natural development of atmospheric cloud forms or precipitation forms which occur in the troposphere; (60th Legis., Ch. 576, Sec. 2, subdiv. 4.)

(3) "operation" means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year; and (60th Legis., Ch. 576, Sec. 2, subdiv. 2.)

(4) "research and development" means theoretical analysis, exploration, experimentation, and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. (60th Legis., Ch. 576, Sec. 2, subdiv. 3.)

[Sections 14.003 to 14.010 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Section 14.011. Regulations—In General

The board may make regulations necessary to the exercise of its powers and the performance of its duties under this chapter. (60th Legis., Ch. 576, Sec. 3, subdiv. 2 (part).)

§ 14.012. Regulations—Licenses and Permits

In order to effectuate the purposes of this chapter, the board may make regulations establishing procedures and conditions for the issuance of licenses and permits. (60th Legis., Ch. 576, Sec. 9, subsec. 2, sen. 1; Sec. 10 (part).)

§ 14.013. Regulations—Safety

The board may, by regulation or order, establish any standards and instructions to govern the carrying out of research or projects in weather modification and control that the board considers necessary or desirable

to minimize danger to health or property. (60th Legis., Ch. 576, Sec. 3, subdiv. 2 (part).)

§ 14.014. Studies; Investigations; Hearings

The board may make any studies or investigations, obtain any information, and hold any hearings the board considers necessary or proper to assist it in exercising its power or administering or enforcing this chapter or any regulations or orders issued under this chapter. (60th Legis., Ch. 576, Sec. 3, subdiv. 3.)

§ 14.015. Advisory Committees

The board may establish advisory committees to advise the board and to make recommendations to the board concerning legislation, policies, administration, research, and other matters. (60th Legis., Ch. 576, Sec. 3, subdiv. 1.)

§ 14.016. Personnel

The board may, as provided by the general appropriations act, appoint and fix the compensation of any personnel, including specialists and consultants, necessary to perform its duties and functions under this chapter. (60th Legis., Ch. 576, Sec. 3, subdiv. 4.)

§ 14.017. Materials and Equipment

The board may acquire, in the manner provided by law, any materials, equipment, and facilities necessary to perform its duties and functions under this chapter. (60th Legis., Ch. 576, Sec. 3, subdiv. 5.)

§ 14.018. Interstate Compacts

The board may represent the state in matters pertaining to plans, procedures, or negotiations for interstate compacts relating to weather modification and control. (60th Legis., Ch. 576, Sec. 3, subdiv. 7.)

§ 14.019. Contracts, Cooperative Agreements, Etc.

(a) The board may cooperate with public or private agencies to promote the purposes of this chapter.

(b) The board may enter into cooperative agreements with the United States or any of its agencies, or with counties and cities of this state, or with any private or public agencies, for conducting weather modification or cloud-seeding operations.

(c) The board may represent the state, counties, cities, and public and private agencies in contracting with private concerns for the performance of weather modification or cloud-seeding operations. (60th Legis., Ch. 576, Sec. 3, subdivs. 6, 8, and 9.)

§ 14.020 Promotion of Research and Development

(a) In order to assist in expanding the theoretical and practical knowledge of weather modification and control, the board shall promote continuous research and development in:

(1) the theory and development of methods of weather modification and control, including processes, materials, and devices related to these methods;

(2) the utilization of weather modification and control for agricultural, industrial, commercial, and other purposes; and

(3) the protection of life and property during research and operational activities.

(b) The board may conduct and may contract for research and development activities relating to the purposes of this section. (60th Legis., Ch. 576, Sec. 4.)

§ 14.021. Grants, Gifts, Etc.

Subject to any limitations imposed by law, the board may accept federal grants, private gifts, and donations from any other source. Unless the use of the money is restricted or subject to any limitations provided by law, the board may spend it for the administration of this chapter or may, by grant, contract, or cooperative arrangement, use the money to encourage research and development by a public or private agency. (60th Legis., Ch. 576, Sec. 6, subsec. 1.)

§ 14.022. Disposition of License and Permit Fees

The board shall deposit all license and permit fees in the state treasury. (60th Legis., Ch. 576, Sec. 6, subsec. 2.)

§ 14.023. Oaths of Witnesses; Subpoenas

(a) In conducting any hearing, the board or a representative designated by it may administer oaths and examine witnesses.

(b) The board or a representative designated by it may issue subpoenas to compel the attendance of witnesses and the production of books, records, documents, and instruments. (60th Legis., Ch. 576, Sec. 5, sen. 2.)

[Sections 14.024 to 14.040 reserved for expansion]

SUBCHAPTER C. LICENSES AND PERMITS**Section 14.041. License and Permit Required**

Except as provided by regulation of the board under Section 14.042 of this code, no person may engage in activities for weather modification and control:

- (1) without a weather modification license and a weather modification permit issued by the board; or
- (2) in violation of any term or condition of the license or the permit. (60th Legis., Ch. 576, Sec. 7.)

§ 14.042. Exemptions

The board, to the extent it considers exemptions practical, shall provide by regulation for exempting the following activities from the license and permit requirements of this chapter:

- (1) research, development, and experiments conducted by state and federal agencies, institutions of higher learning, and bona fide nonprofit research organizations;
- (2) laboratory research and experiments;
- (3) activities of an emergent nature for protection against fire, frost, sleet, or fog; and
- (4) activities normally conducted for purposes other than inducing, increasing, decreasing, or preventing precipitation or hail. (60th Legis., Ch. 576, Sec. 8.)

§ 14.043. Issuance of License

(a) The board, in accordance with its regulations, shall issue a weather modification license to each applicant who:

- (1) pays the license fee; and
- (2) demonstrates, to the satisfaction of the board, competence in the field of meteorology which is reasonably necessary to engage in weather modification and control activities.

(b) If the applicant is an organization, the competence must be demonstrated by the individual or individuals who are to be in control and in

charge of the operation for the applicant. (60th Legis., Ch. 576, Sec. 9, subsec. 1.)

§ 14.044. License Fee

The fee for an original or renewal license is \$50. (60th Legis., Ch. 576, Sec. 9, subsec. 2, sen. 3.)

§ 14.045. Expiration Date

Each original or renewal license expires at the end of the state fiscal year for which it was issued. (60th Legis., Ch. 576, Sec. 9, subsec. 2, sen. 2 (part).)

§ 14.046. Renewal License

At the expiration of the license period, the board shall issue a renewal license to each applicant who pays the license fee and who has the qualifications necessary for issuance of an original license. (60th Legis., Ch. 576, Sec. 9, subsec. 2, sen. 2 (part).)

[Sections 14.047 to 14.060 reserved for expansion]

§ 14.061. Issuance of Permit

The board, in accordance with its regulations, shall issue a weather modification permit to each applicant who:

- (1) holds a valid weather modification license;
- (2) pays the permit fee;
- (3) publishes a notice of intention and submits proof of publication as required by this chapter; and
- (4) furnishes proof of financial responsibility. (60th Legis., Ch. 576, Sec. 15.)

Amended by Acts 1971, 62nd Leg., p. 1767, ch. 518, § 1, eff. May 31, 1971.

§ 14.062. Permit Fee

The fee for each permit is \$25. (60th Legis., Ch. 576, Sec. 15.)

§ 14.063. Scope of Permit

A separate permit is required for each operation. If an operation is to be conducted under contract, a permit is required for each separate contract. The board shall not issue a permit for a contracted operation unless it covers a continuous period not to exceed one year. (60th Legis., Ch. 576, Sec. 11, sen. 1.)

§ 14.064. Application and Notice of Intention

Before undertaking any operation, a licensee shall file an application for a permit and shall have a notice of intention published as required by this chapter. (60th Legis., Ch. 576, Sec. 11, sen. 2.)

§ 14.065. Content of Notice

In the notice of intention the applicant shall include:

- (1) the name and address of the licensee;
- (2) the nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
- (3) the area in which and the approximate time during which the operation is to be conducted;
- (4) the area which is intended to be affected by the operation; and
- (5) the materials and methods to be used in conducting the operation. (60th Legis., Ch. 576, Sec. 12.)

§ 14.066. Publication of Notice

The notice of intention shall be published at least once a week for three consecutive weeks in a newspaper of general circulation published in each county in which the operation is to be conducted and in each county which includes any part of the affected area. If in any county no newspaper of general circulation is published, then publication shall be made in a newspaper having general circulation in the county. (60th Legis., Ch. 576, Sec. 13, subsec. 1.)

§ 14.067. Proof of Publication; Affidavit

The applicant shall file proof of the publication, together with the publishers' affidavits, with the board during the 15-day period immediately following the date of the last publication. (60th Legis., Ch. 576, Sec. 13, subsec. 2.)

§ 14.068. Proof of Financial Responsibility

Proof of financial responsibility is made by showing, to the satisfaction of the executive director of the board, that the licensee has the ability to respond in damages for liability which might reasonably result from the operation for which the permit is sought. (60th Legis., Ch. 576, Sec. 14.)

§ 14.069. Modification of Permit

The board may modify the terms and conditions of a permit if:

- (1) the licensee is first given notice and a reasonable opportunity for a hearing on the need for a modification; and
- (2) it appears to the board that a modification is necessary to protect the health or property of any person. (60th Legis., Ch. 576, Sec. 17, subsec. 2.)

§ 14.070. Scope of Activity

Once a permit is issued, the licensee shall confine his activities substantially within the limits of time and area specified in the notice of intention, except to the extent that the limits are modified by the board. He shall also comply with any terms and conditions of the permit as originally issued or as subsequently modified by the board. (60th Legis., Ch. 576, Sec. 11, sen. 3.)

§ 14.071. Records and Reports

(a) A licensee shall keep a record of each operation conducted under permit, showing:

- (1) the method employed;
- (2) the type of equipment used;
- (3) the kind and amount of each material used;
- (4) the times and places the equipment is operated;
- (5) the name and post-office address of each individual, other than the licensee, who participates or assists in the operation; and
- (6) other information required by the board. (60th Legis., Ch. 576, Sec. 16, subsec. 1 (part).)

(b) The board shall require written reports covering each operation, whether it is exempt or conducted under a permit. (60th Legis., Ch. 576, Sec. 16, subsec. 2.)

(c) At the time and in the manner required by the board, a licensee shall submit a written report containing the information described in Subsection (a) of this section. (60th Legis., Ch. 576, Sec. 16, subsec. 1 (part).)

(d) All information on an operation shall be submitted to the board before it is released to the public. (60th Legis., Ch. 576, Sec. 16, subsec. 3.)

(e) The reports and records in the custody of the board shall be kept open for public inspection. (60th Legis., Ch. 576, Sec. 16, subsec. 4.)

[Sections 14.072 to 14.090 reserved for expansion]

SUBCHAPTER D. SANCTIONS

Section 14.091. Suspension; Revocation; Refusal to Renew

(a) The board may suspend or revoke a license or permit if it appears that the licensee:

(1) no longer has the qualifications necessary for the issuance of an original license or permit; or

(2) has violated any provision of this chapter.

(b) The board may refuse to renew the license of, or to issue another permit to, any applicant who has failed to comply with any provision of this chapter. (60th Legis., Ch. 576, Sec. 17, subsec. 1, sen. 1, 2, and 4.)

§ 14.092. Hearing Required

The board may not suspend or revoke a license or permit without first giving the licensee notice and a reasonable opportunity to be heard with respect to the grounds for the board's proposed action. (60th Legis., Ch. 576, Sec. 17, subsec. 1, sen. 3.)

§ 14.093. Record of Hearing

The board shall have a record made of all proceedings at each hearing held under Section 14.092 of this code, and shall have the record filed with its findings and conclusions. (60th Legis., Ch. 576, Sec. 5, sen. 1.)

[Sections 14.094 to 14.100 reserved for expansion]

§ 14.101. Immunity of State

The state and its officers and employees are immune from liability for all weather modification and control activities conducted by private persons and groups. (60th Legis., Ch. 576, Sec. 18, sen. 1 (part).)

§ 14.102. Private Legal Relationships

(a) This chapter does not affect private legal relationships, except that an operation conducted under the license and permit requirements of this chapter is not an ultrahazardous activity which makes the participants subject to liability without fault.

(b) The fact that a person holds a license or permit under this chapter, or that he has complied with this chapter or the regulations issued under this chapter, is not admissible as evidence in any legal proceeding brought against him. (60th Legis., Ch. 576, Sec. 18, sen. 1 (part), sen. 2.)

[Sections 14.103 to 14.110 reserved for expansion]

§ 14.111. Penalty

(a) A person who violates any provision of this chapter or any valid regulation or order issued under this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000, or by confinement in the county jail for not more than 10 days, or by both.

(b) A separate offense is committed each day a violation continues. (60th Legis., Ch. 576, Sec. 19.)

§ 14.112. Enforcement by Board

(a) Whenever it appears that a person has violated or is violating, or is threatening to violate, any provision of this chapter or any regulation, license, permit, or order of the board, then the board, or the executive director when authorized by the board, may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty.

(b) Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter or any regulation, license, permit, or order of the board, the district court shall grant the injunctive relief the facts may warrant.

(c) At the request of the board, or the executive director when authorized by the board, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty, as authorized in Subsection (a) of this section.

Added by Acts 1971, 62nd Leg., p. 1769, ch. 518, § 11, eff. May 31, 1971.

SUBTITLE C. WATER QUALITY CONTROL**CHAPTER 21. WATER QUALITY BOARD****SUBCHAPTER A. GENERAL PROVISIONS****Section**

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- 21.002. Policy.
- 21.003. Definitions.
- 21.004. Ownership of Underground Water.
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- 21.021. Texas Water Quality Board.
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SUBCHAPTER A. GENERAL PROVISIONS

Section 21.001. Short Title

This chapter may be cited as the Texas Water Quality Act. (60th Legis., Ch. 313, Sec. 1.01, as amended.)

§ 21.002. Policy

It is the policy of this state and the purpose of this chapter to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, and the economic development of the state; to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy. (60th Legis., Ch. 313, Sec. 1.02, as amended.)

§ 21.003. Definitions

As used in this chapter:

(1) "Board" means the Texas Water Quality Board. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (2), as amended.)

(2) "Executive director" means the executive director of the Texas Water Quality Board. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (3), as amended.)

(3) "Water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (4), as amended.)

(4) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (5), as amended.)

(5) "Sewage" means waterborne human waste and waste from domestic activities, such as washing, bathing, and food preparation. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (6), as amended.)

(6) "Municipal waste" means waterborne liquid, gaseous, or solid substances that result from any discharge from a publicly owned sewer system, treatment facility, or disposal system. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (7), as amended.)

(7) "Recreational waste" means waterborne liquid, gaseous, or solid substances that emanate from any public or private park, beach, or recreational area. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (8), as amended.)

(8) "Agricultural waste" means waterborne liquid, gaseous, or solid substances that arise from the agricultural industry and agricultural activities, including without limitation, agricultural animal feeding pens and lots, structures for housing and feeding agricultural animals, and processing facilities for agricultural products. The term "agricultural waste" does not include tail water or runoff water from irrigation, or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (9), as amended.)

(9) "Industrial waste" means waterborne liquid, gaseous, or solid substance that results from any process of industry, manufacturing, trade, or business. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (10), as amended.)

(10) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste, that may cause impairment of the quality of water in the state. "Other waste" also includes tail water or runoff water from irrigation, or rainwater runoff from cultivated or uncultivated range land, pasture land, and farmland that may cause impairment of the quality of the water in the state. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (11), as amended.)

(11) "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (12), as amended.)

(12) "Sewer system" means pipelines, conduits, storm sewers, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (13), as amended.)

(13) "Treatment facility" means any plant, disposal field, lagoon, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing, or stabilizing waste. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (14), as amended.)

(14) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (15), as amended.)

(15) "Local government" means an incorporated city, a county, a river authority, or a water district or authority acting under Article

III, Section 52, or Article XVI, Section 59, of the Texas Constitution. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (16), as amended.)

(16) "Permit" means an order issued by the board in accordance with the procedures prescribed in this chapter establishing the treatment which shall be given to wastes being discharged into or adjacent to any water in the state to preserve and enhance the quality of the water, and specifying the conditions under which the discharge may be made. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (17), as amended.)

(17) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (18), as amended.)

§ 21.004. Ownership of Underground Water

Nothing in this chapter affects ownership rights in underground water. (60th Legis., Ch. 313, Sec. 1.04, as amended.)

§ 21.005. Prior Actions of Pollution Control Board

(a) All permits, orders, rules, regulations, water quality criteria, water quality standards, water quality requirements, and other actions taken, performed, or established by the Texas Water Pollution Control Board under Chapter 42, Acts of the 57th Legislature, 1st Called Session, 1961, as amended (Article 7621d, Vernon's Texas Civil Statutes), are validated and remain in effect unless and until amended or superseded by order of the Texas Water Quality Board, and are administered by and under the jurisdiction of the Texas Water Quality Board.

(b) Where the Texas Water Pollution Control Board is referred to in any statute, rule, or regulation, the reference shall be construed to mean the Texas Water Quality Board. (60th Legis., Ch. 313, Sec. 1.05, as amended.)

§ 21.006. Repeal of Other Laws

All general, local, and special laws enacted before September 1, 1969, are repealed to the extent that those laws give local governments the authority to set and enforce water quality standards other than those adopted by the board under this chapter. (60th Legis., Ch. 313, Sec. 1.13, as amended.)

[Sections 21.007 to 21.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Section 21.021. Texas Water Quality Board

The Texas Water Quality Board is an agency of the state. (60th Legis., Ch. 313, Sec. 2.01, as amended.)

§ 21.022. Members of Board

The board is composed of seven members, chosen as follows: Three are appointed by the governor with the advice and consent of the senate; and the other four are the executive director of the Texas Water Development Board, the state commissioner of health, the executive director of the Parks and Wildlife Department, and the chairman of the Texas Railroad Commission. Each of the latter four shall perform the duties of a

member of the board as additional duties required of his other office. (60th Legis., Ch. 313, Sec. 2.02, as amended.)

§ 21.023. Terms of Appointed Members

The members appointed by the governor hold office for staggered terms of six years, with the term of one member expiring on the first day of September in each odd-numbered year. Each of these members holds office until his successor is appointed and has qualified. (60th Legis., Ch. 313, Sec. 2.03, as amended.)

§ 21.024. Qualification by Members

A member appointed by the governor while the senate is in session is qualified to serve on the board after his nomination has been confirmed by the senate and on taking the constitutional oath of office. A member appointed by the governor while the senate is not in session is qualified to serve on taking the constitutional oath of office, and serves until the expiration of his term or until his nomination is rejected by the senate, or is not confirmed by the senate at the next regular or special session. (60th Legis., Ch. 313, Sec. 2.04, subsec. (a), as amended.)

§ 21.025. Record of Appointments

The official records of the board shall reflect the date each member's certificate of appointment was issued by the secretary of state, the date he took the oath of office, the person who administered the oath, the date the appointive term began, and the date the term expires. (60th Legis., Ch. 313, Sec. 2.04, subsec. (c), as amended.)

§ 21.026. Per Diem; Expenses

(a) A member of the board is not entitled to a salary for duties performed as a member of the board; but each member appointed by the governor is entitled to \$25 for each day he is in attendance at meetings, hearings, or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business.

(b) Each member of the board appointed by the governor is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties, as evidenced by vouchers approved by the executive director of the board. Each of the other members is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties for the board, out of funds made available for those purposes to the state agency of the member. (60th Legis., Ch. 313, Sec. 2.05, as amended.)

§ 21.027. Personal Representatives

(a) The executive director of the Texas Water Development Board, the executive director of the Parks and Wildlife Department, the state commissioner of health, and the chairman of the Texas Railroad Commission may each delegate to a personal representative from his office the authority and duty to represent him on the board; but by this delegation a member is not relieved of responsibility for the acts and decisions of his representative.

(b) While engaged in performing official board duties as authorized by a member, a personal representative stands in the place of the member for the purpose of participating in and voting on matters at board meetings and hearings, and performing other business of the board. He has all the powers and duties of the member, including the power to take testimony at board hearings.

(c) A personal representative may serve as either chairman or vice chairman of the board.

(d) A personal representative is entitled to reimbursement for travel and other necessary expenses to the same extent and in the same manner as the member he represents. (60th Legis., Ch. 313, Sec. 2.06, as amended.)

§ 21.028. Board Officers

The board shall elect a chairman and a vice chairman to serve two-year terms beginning on February 1 of each odd-numbered year. (60th Legis., Ch. 313, Sec. 2.07, as amended.)

§ 21.029. Board Meetings

(a) The chairman, or in his absence the vice chairman, shall preside at all meetings of the board. In the absence of both the chairman and the vice chairman from any meeting of the board, the members present may select one of their number to serve as chairman for the meeting.

(b) The board shall have regular meetings at times specified by a majority vote of the board.

(c) The chairman may call special meetings at any time. He shall call a special meeting on written request signed by at least two members of the board.

(d) A majority of the board constitutes a quorum to transact business. (60th Legis., Ch. 313, Sec. 2.08, as amended.)

§ 21.030. Executive Director

The board shall employ an executive director. The executive director is the chief administrative officer of the board. In addition to his other duties, he shall keep full and accurate minutes of all transactions and proceedings of the board; and he is the custodian of all the files and records of the board. (60th Legis., Ch. 313, Sec. 2.09, as amended.)

§ 21.031. Deputy Director; Staff

(a) The executive director shall employ a deputy director, subject to the approval of the board. In the absence of the executive director, the deputy director shall assume his duties and functions.

(b) The executive director shall employ the staff authorized by the board. In addition to its own staff, the board may by interagency contract utilize, and upon the request of the board shall receive, the assistance of any state-supported educational institution, experimental station, or other state agency. (60th Legis., Ch. 313, Sec. 2.10, subsec. (a), (b), as amended.)

§ 21.032. Employee Moving Expense

When provided by legislative appropriation, the board may pay the costs of transporting and delivering the household goods and effects of employees transferred by the board from one permanent station to another when, in the judgment of the board, the transfer will serve the best interest of the state. (60th Legis., Ch. 313, Sec. 2.10, subsec. (c), as amended.)

§ 21.033. Funds from Other State Agencies

Any state agency that has statutory responsibilities for water pollution or water quality control and that receives a legislative appropriation for these purposes may transfer to the board any amount mutually agreed on by the board and the agency, subject to the approval of the governor. (60th Legis., Ch. 313, Sec. 2.11, as amended.)

§ 21.034. Gifts and Grants

The board may apply for, request, solicit, contract for, receive, and accept money and other assistance from any source to carry out its duties. (60th Legis., Ch. 313, Sec. 2.12, as amended.)

§ 21.035. Special Fund

Money received by the board under Section 21.033 or 21.034 of this code shall be deposited in the state treasury and credited to a special fund. The board may use this fund for salaries, wages, professional and consulting fees, planning and construction grants, loans and contracts, travel expenses, equipment, and other necessary expenses incurred in carrying out its duties under this chapter, as provided by legislative appropriation. (60th Legis., Ch. 313, Sec. 2.13, as amended.)

§ 21.036. Copies of Documents, Proceedings, Etc.

Subject to the limitations of Section 21.264 of this code, on the application of any person, the board shall furnish certified or other copies of any proceeding or other official act of record, or of any map, paper, or document filed with the board. A certified copy with the seal of the board and the signature of the chairman or the executive director is admissible as evidence in any court or administrative proceeding. (60th Legis., Ch. 313, Sec. 2.15, sen. 1, 2, as amended.)

§ 21.037. Fees for Copies

The board shall prescribe in its rules the fees which shall be charged for copies and is authorized to furnish copies, certified or otherwise, to a person without charge when the furnishing of the copies serves a public purpose. Other statutes concerning fees for copies of records do not apply to the board, except that the fees set by the board for copies prepared by the board shall not exceed those prescribed in Article 3913, Revised Civil Statutes of Texas, 1925, as amended. (60th Legis., Ch. 313, Sec. 2.15, sen. 3, 4, as amended.)

§ 21.038. Documents, Etc., State Property; Open for Inspection

All information, documents, and data collected by the board in the performance of its duties are the property of the state. Subject to the limitations of Section 21.264 of this code, all records are open to inspection by any person during regular office hours. (60th Legis., Ch. 313, Sec. 2.14, as amended.)

§ 21.039. Biennial Reports

The board shall make biennial written reports to the governor and to the legislature and shall include in each report a statement of its activities. (60th Legis., Ch. 313, Sec. 2.16, as amended.)

§ 21.040. Seal

The board shall adopt a seal. (60th Legis., Ch. 313, Sec. 2.17, as amended.)

[Sections 21.041 to 21.060 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES**Section 21.061. In General**

The board shall administer the provisions of this chapter and shall establish the level of quality to be maintained in, and shall control the

quality of, the water in this state as provided by this chapter. Waste discharges or impending waste discharges covered by the provisions of this chapter are subject to reasonable rules, regulations, or orders adopted or issued by the board in the public interest. The board has the powers and duties specifically prescribed by this chapter and all other powers necessary or convenient to carry out its responsibilities. (60th Legis., Ch. 313, Sec. 3.01, as amended.)

§ 21.062. State Water Quality Plan

The board shall prepare and develop a general, comprehensive plan for the control of water quality in the state. (60th Legis., Ch. 313, Sec. 3.02, as amended.)

§ 21.063. Research, Investigations

The board shall conduct, or have conducted, any research and investigations it considers advisable and necessary for the discharge of its duties under this chapter. (60th Legis., Ch. 313, Sec. 3.03, as amended.)

§ 21.064. Power to Enter Property

The members, employees, and agents of the board are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state. Members, employees, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management, or the person then in charge, of his presence and shall exhibit proper credentials. If any member, employee, or agent of the board is refused the right to enter in or on public or private property under this authority, the board may invoke the remedies authorized in Section 21.253 of this code. (60th Legis., Ch. 313, Sec. 3.04, as amended.)

§ 21.065. Power to Examine Records

The members, employees, and agents of the board may examine during regular business hours any records or memoranda pertaining to the operation of any sewer system, disposal system, or treatment facility, or pertaining to any discharge of waste. (60th Legis., Ch. 313, Sec. 3.05, as amended.)

§ 21.066. Enforcement Proceedings

The board, or the executive director when authorized by the board, may institute court proceedings to compel compliance with the provisions of this chapter or the rules, orders, permits, or other decisions of the board. (60th Legis., Ch. 313, Sec. 3.06, as amended.)

§ 21.067. Cooperation

The board shall:

(1) encourage voluntary cooperation by the people, cities, industries, associations, agricultural interests, and representatives of other interests in preserving the greatest possible utility of water in the state;

(2) encourage the formation and organization of cooperative groups, associations, cities, industries, and other water users for the purpose of providing a medium to discuss and formulate plans for attainment of water quality control;

(3) establish policies and procedures for securing close cooperation among state agencies that have water quality control functions; and

(4) cooperate with the governments of the United States and other states, and with official or unofficial agencies and organizations, with respect to water quality control matters and with respect to formulation of interstate water quality control compacts or agreements; and when representation of state interests on a basin planning agency for water quality purposes is required under Section 3(c) of the Federal Water Pollution Control Act (33 U.S.C. Sec. 466 et seq.), or other federal legislation having a similar purpose, the representation shall include an officer or employee of the board. (60th Legis., Ch. 313, Sec. 3.07, as amended.)

§ 21.068. Contracts, Instruments

The board may make contracts and execute instruments that are necessary or convenient to the exercise of its powers or the performance of its duties. (60th Legis., Ch. 313, Sec. 3.08, as amended.)

§ 21.069. Rule-Making

The board shall make and enforce rules reasonably required to effectuate the provisions of this chapter, including rules governing procedure and practice before the board. The board may amend any rule it makes. In making and amending rules, the board shall comply, as appropriate, with the requirements of Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252—13, Vernon's Texas Civil Statutes). (60th Legis., Ch. 313, Sec. 3.09, as amended.)

§ 21.070. Orders

(a) The board is authorized to issue orders and make determinations necessary to effectuate the purposes of this chapter.

(b) The board shall set forth the findings on which it bases any order granting or denying special relief requested of the board, or involving a determination following a hearing on an alleged violation of Section 21.251 of this code, or directing a person to perform or refrain from performing a certain act or activity.

(c) The executive director shall attest the orders of the board. (60th Legis., Ch. 313, Sec. 3.10, sen. 1, 2, 3, as amended.)

§ 21.071. Temporary Orders Prior to Notice and Hearing

(a) The board, or the executive director when authorized by the board, may issue temporary orders relating to the discharge of waste without notice and hearing, or with such notice and hearing as the board or the executive director considers practicable under the circumstances, when this is necessary to enable action to be taken more expeditiously than is otherwise provided by this chapter to effectuate the policy and purposes of this chapter. (60th Legis., Ch. 313, Sec. 3.10, sen. 4, as amended.)

(b) If the board or the executive director issues a temporary order under this authority without a hearing before the board, the order shall fix a time and place for a hearing to be held before the board, which shall be held as soon after the temporary order is issued as is practicable.

(c) At the hearing, the board shall affirm, modify, or set aside the temporary order. If the nature of the board's action requires, further proceedings shall be conducted as appropriate under other applicable provisions of this chapter. (60th Legis., Ch. 313, Sec. 3.10, sen. 5, 7, 8, as amended.)

(d) The requirements of Section 21.074 of this code relating to the time for notice, newspaper notice, and method of giving a person notice do not apply to such a hearing, but such general notice of the hearing shall be given as the board or the executive director considers practicable

under the circumstances. (60th Legis., Ch. 313, Sec. 3.10, sen. 6, as amended.)

§ 21.072. Hearing Powers

The board may call and hold hearings, administer oaths, receive evidence at the hearing, issue subpoenas to compel the attendance of witnesses and the production of papers and documents related to the hearing, and make findings of fact and decisions with respect to administering the provisions of this chapter or the rules, orders, or other actions of the board. (60th Legis., Ch. 313, Sec. 3.11, as amended.)

§ 21.073. Delegation of Hearing Powers

(a) Except for those hearings required to be held before the board under Section 21.071(b) of this code, the board may authorize the executive director to call and hold hearings on any subject on which the board may hold a hearing. (60th Legis., Ch. 313, Sec. 3.12, subsec. (a), sen. 1, as amended.)

(b) The board may also authorize the executive director to delegate to one or more employees of the board, or to professional or technical personnel under contract to the board, the authority to hold any hearing called by the executive director. The board may establish the qualifications required of the persons who may be delegated the authority by the executive director to hold hearings. (60th Legis., Ch. 313, Sec. 3.12, subsec. (a), sen. 2, 3, as amended.)

(c) At any hearing called by the executive director, he or the person delegated the authority by him to hold the hearing is empowered to administer oaths and receive evidence. (60th Legis., Ch. 313, Sec. 3.12, subsec. (a), sen. 4, as amended.)

(d) The individual or individuals holding a hearing under the authority of this section shall report the hearing in the manner prescribed by the board. (60th Legis., Ch. 313, Sec. 3.12, subsec. (b), as amended.)

§ 21.074. Notice of Hearings; Continuance

(a) Except as otherwise provided in Section 21.071 of this code, the provisions of this section apply to all hearings conducted in compliance with this chapter.

(b) Notice of the hearing shall describe briefly and in summary form the purpose of the hearing and the date, time, and place of the hearing.

(c) Notice of the hearing shall be published at least once in a newspaper regularly published or circulated in each county where, by virtue of the county's geographical relation to the subject matter of the hearing, the board has reason to believe persons reside who may be affected by the action that may be taken as a result of the hearing. The date of the publication shall be not less than 20 days before the date set for the hearing.

(d) If notice of the hearing is required by this chapter to be given to a person, the notice shall be served personally or mailed not less than 20 days before the date set for the hearing to the person at his last address known to the board. If the party is not an individual, the notice may be given to any officer, agent, or legal representative of the party.

(e) The individual or individuals holding the hearing (hereinafter in this subsection called the hearing body) shall conduct the hearing at the time and place stated in the notice. The hearing body may continue the hearing from time to time and from place to place without the necessity of publishing, serving, mailing, or otherwise issuing a new notice.

(f) If a hearing is continued and a time and place for the hearing to reconvene are not publicly announced by the person conducting the hearing at the hearing before it is recessed, a notice of any further setting of

the hearing shall be served personally or mailed in the manner prescribed in Subsection (d) of this section at a reasonable time before the new setting, but it is not necessary to publish a newspaper notice of the new setting. (60th Legis., Ch. 313, Sec. 3.13, as amended.)

§ 21.075. Water Quality Standards

The board, by order, shall set water quality standards for the water in the state, and may amend the standards from time to time. The board has the sole and exclusive authority to set water quality standards for all water in the state. (60th Legis., Ch. 313, Sec. 3.14, as amended.)

§ 21.076. Hearings on Standards; Consultation

Before setting or amending water quality standards, the board shall:

(1) hold public hearings at which any person may appear and present evidence, under oath, pertinent for consideration by the board; and

(2) consult with the Texas Water Development Board and the Texas Water Rights Commission to insure that the proposed standards are not inconsistent with the objectives of the state water plan. (60th Legis., Ch. 313, Sec. 3.15, as amended.)

§ 21.077. Hearings on Standards: Notice to Whom

Notice of a hearing under Section 21.076 of this code shall be given to each of the following that the board believes may be affected:

(1) each local government whose boundary is contiguous to the water in question, or whose boundaries contain all or part of the water, or through whose boundaries the water flows;

(2) the holders of rights to appropriate water from the water in question, as shown by the records of the Texas Water Rights Commission; and

(3) the holders of permits from the board to discharge waste into or adjacent to the water in question. (60th Legis., Ch. 313, Sec. 3.16, as amended.)

§ 21.078. Standards to be Published

The board shall publish its water quality standards and amendments and shall make copies available to the public on written request. (60th Legis., Ch. 313, Sec. 3.17, as amended.)

§ 21.079. Board May Issue Permits

(a) The board may issue permits and amendments to permits for the discharge of waste into or adjacent to water in the state.

(b) A person desiring to obtain a permit or to amend a permit shall submit an application to the board containing all information reasonably required by the board or the executive director. (60th Legis., Ch. 313, Sec. 3.18, as amended.)

§ 21.080. Action on Application

(a) Except as provided in Subsection (b) of this section, a public hearing shall be held on an application for a permit or to amend a permit. Notice of the hearing shall be given to the persons who in the judgment of the board may be affected.

(b) An application to amend a permit to improve the quality of waste authorized to be discharged may be set for consideration and may be acted on by the board at a regular meeting without the necessity of holding a public hearing if the applicant does not seek to increase significantly the quantity of waste authorized to be discharged or change materially the pattern or place of discharge. Notice of the application shall be mailed to the mayor and health authorities for the city or town, and the

county judge and health authorities for the county, in which the waste is or will be discharged, at least 10 days before the board meeting, and they may present information to the board on the application. (60th Legis., Ch. 313, Sec. 3.19, as amended.)

§ 21.081. Conditions of Permit; Amendment; Revocation and Suspension

(a) In each permit the board shall prescribe the conditions on which it is issued, including:

- (1) the duration of the permit;
- (2) the location of the point of discharge of the waste;
- (3) the maximum quantity of waste that may be discharged under the permit at any time and from time to time;
- (4) the character and quality of waste that may be discharged under the permit; and
- (5) any monitoring and reporting requirements prescribed by the board for the permittee.

(b) After a public hearing, notice of which shall be given to the permittee, the board may require the permittee, from time to time, for good cause, to conform to new or additional conditions. The board shall allow the permittee a reasonable time to conform to the new or additional conditions, and on application of the permittee, the board may grant additional time.

(c) A permit does not become a vested right in the permittee. After a public hearing, notice of which shall be given to the permittee, the board may revoke or suspend a permit for good cause on any of the following grounds:

- (1) the permittee has failed or is failing to comply with the conditions of the permit;
- (2) the permit is subject to cancellation or suspension under Section 21.201 of this code;
- (3) the permit or operations under the permit have been abandoned; or
- (4) the permit is no longer needed by the permittee.

(d) The notice required by Subsections (b) and (c) of this section shall be sent to the permittee at his last known address as shown by the records of the board. (60th Legis., Ch. 313, Sec. 3.20, as amended.)

§ 21.082. Permit: Effect on Recreational Water

In considering the issuance of a permit to discharge effluent into any body of water having an established recreational standard, the board shall consider any unpleasant odor quality of the effluent and the possible adverse effect that it might have on the receiving body of water; and the board may consider the odor as one of the elements of the water quality of the effluent. (60th Legis., Ch. 313, Sec. 3.21, as amended.)

§ 21.083. Private Sewage Facilities

(a) As used in this Section and Section 21.084 of this code "private sewage facilities" means septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks, and all other facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the board.

(b) Whenever it appears that the use of private sewage facilities in an area is causing or may cause pollution, or is injuring or may injure the public health, the board may hold a public hearing in or near the area to determine whether an order should be entered controlling or prohibiting the installation or use of private sewage facilities in the area.

(c) Before entering such an order, the board shall consult with the State Commissioner of Health for recommendations concerning the impact of the use of private sewage facilities in the area on public health.

(d) If the board finds after the hearing that the use of private sewage facilities in an area is causing or may cause pollution, or is injuring or may injure the public health, the board may enter an order adopting such regulations on private sewage facilities as it may consider appropriate to abate or prevent pollution or injury to public health.

(e) The regulations so ordered may, without limitation, do one or more of the following:

(1) limit the number and kind of private sewage facilities which may be used in the area;

(2) prohibit the installation and use of additional private sewage facilities or kinds of private sewage facilities in the area;

(3) require modifications or improvements to existing private sewage facilities or impose limitations on their use; and

(4) provide for a gradual and systematic reduction of the number or kinds of private sewage facilities in the area.

(f) The board may provide in the regulations for a system of licensing of private sewage facilities in the area, including procedures for cancellation of a license for violation of this Act, the license, or the orders or regulations of the board. The board may also provide in the system of licensing for periodic renewal of the licenses, but this may not be required more frequently than once a year.

(g) The board may delegate the licensing function and the administration of the licensing system to the executive director or to any local government whose boundaries include the area or which has been designated by the board under Sections 21.201–21.205 of this code as the agency to develop a regional waste disposal system which includes the area.

(h) The board also may prescribe and require the payment of reasonable license fees by an applicant for a license, including fees for periodic renewal of a license. The board may change the amount of the license fees from time to time. The amount of the fees shall be based on the reasonable cost of performing the licensing function and administering the licensing system, including, where applicable, costs of soil percolation and other tests to determine the suitability of using a particular type or types of private sewage facilities in the area or at any location within the area, field inspections, travel, and other costs directly attributable to performing the licensing function and administering the licensing system.

(i) If the board or the executive director has the responsibility for performing the licensing function, the license fees shall be paid to the board. Those fees shall not be deposited in the general revenue fund of the state, but shall be deposited in a special fund for use by the board in performing the licensing function and administering the licensing system, and the fees so deposited are hereby appropriated to the board to use for those purposes only.

(j) If a local government has the responsibility for performing the licensing function, the fees shall be paid to the local government. (60th Legis., Ch. 313, Sec. 3.22, subsec. (a), sen. 1–4, as amended.)

Amended by Acts 1971, 62nd Leg., p. 1975, ch. 612, Art. 1, § 3, eff. Sept. 1, 1971.

§ 21.084. Control by Counties

(a) Whenever it appears to the commissioners court of any county that the use of private sewage facilities in an area within the county is causing or may cause pollution, or is injuring or may injure the public health, the county may proceed in the same manner and in accordance with the same procedures as the board to hold a public hearing and enter

an order, resolution, or other regulation as it may consider appropriate to abate or prevent pollution or injury to public health.

(b) The order, resolution, or other regulation may provide the same restrictions and requirements as are authorized for an order of the board entered under this section.

(c) Before the order, resolution, or other regulation becomes effective, the county shall submit it to the board and obtain the board's written approval.

(d) In the event of any conflict within an area between an order adopted by the board and an order, resolution, or other regulation adopted by a county under this section, the order of the board shall take precedence.

(e) Where a system of licensing has been ordered by the board or the commissioners court of a county, no person may install or use private sewage facilities required to be licensed thereunder without obtaining such a license. ((S. B. No. 835)) (60th Legis., Ch. 313, Sec. 3.22, subsec. (b), as amended.)

Amended by Acts 1971, 62nd Leg., p. 1976, ch. 612, Art. 1, § 3, eff. Sept. 1, 1971.

§ 21.085. Rating of Waste Disposal Systems

(a) After consultation with the State Department of Health, the board shall provide by rule for a system of approved ratings for municipal waste disposal systems and other waste disposal systems which the board may designate.

(b) The owner or operator of a municipal waste disposal system which attains an approved rating has the privilege of erecting signs of a design approved by the board on highways approaching or inside the boundaries of the municipality, subject to reasonable restrictions and requirements which may be established by the Texas Highway Department.

(c) In addition, the owner or operator of any waste disposal system, including a municipal system, which attains an approved rating has the privilege of erecting signs of a design approved by the board at locations which may be approved or established by the board, subject to such reasonable restrictions and requirements which may be imposed by any governmental entity having jurisdiction.

(d) If the waste disposal system fails to continue to achieve an approved rating, the board may revoke the privilege. On due notice from the board, the owner or operator of the system shall remove the signs. (60th Legis., Ch. 313, Sec. 3.23, as amended.)

§ 21.086. Approval of Disposal System Plans

(a) This section applies to all sewer systems, treatment facilities, and disposal systems, except those public sewage disposal systems for which plans are subject to review and approval by the State Department of Health or by the Texas Water Rights Commission under statutes pertaining to water districts.

(b) Before beginning construction, every person who proposes to construct or materially alter the efficiency of any sewer system, treatment facility, or disposal system to which this section applies shall submit completed plans and specifications to and obtain the approval of the plans by the board or, when authorized by the board, the executive director.

(c) The board, or the executive director when authorized by the board, shall approve the plans and specifications if they conform to the waste discharge requirements and water quality standards established by the board. (60th Legis., Ch. 313, Sec. 3.24, as amended.)

§ 21.087. Federal Grants

The board may execute agreements with the Department of the Interior, the Federal Water Pollution Control Administration, or any other federal agency that administers programs providing federal cooperation, assistance, grants, or loans for research, development, investigation, training, planning, studies, programming, and construction related to methods, procedures, and facilities for the collection, treatment, and disposal of waste or other water quality control activities. The board may accept federal funds for these purposes and for other purposes consistent with the objectives of this chapter, and may use the funds as prescribed by law or as provided by agreement. (60th Legis., Ch. 313, Sec. 3.25, as amended.)

§ 21.088. Water Quality Management Plans

(a) The board may develop and prepare, and from time to time revise, comprehensive water quality management plans for the different areas of the state, as designated by the board.

(b) The board may contract with local governments, regional planning commissions, planning agencies, other state agencies, colleges and universities in the state, and any other qualified and competent person to assist the board in developing and preparing, and from time to time revising, water quality management plans for areas designated by the board.

(c) With funds provided for the purpose by legislative appropriation, the board may make grants or interest-free loans to, or contract with, local governments, regional planning commissions, and planning agencies to pay administrative and other expenses of such entities for developing and preparing, and from time to time revising, water quality management plans for areas designated by the board. The period of time for which funding under this provision may be provided for developing and preparing, or for revising, a plan may not exceed three consecutive years in each instance. Any loan made pursuant to this subsection shall be repaid when the construction of any project included in the plan is begun.

(d) Any person developing or revising a plan shall, during the course of the work, consult with the board, and with local governments and other federal, state, and local governmental agencies which in the judgment of the board or the executive director may be affected by or have a legitimate interest in the plan.

(e) Insofar as may be practical, the water quality management plans shall be reasonably compatible with the other governmental plans for the area, such as area or regional transportation, public utility, zoning, public education, recreation, housing, and other related development plans. (60th Legis., Ch. 313, Sec. 3.26, subsecs. (a)-(e), as amended.)

Amended by Acts 1971, 62nd Leg., p. 1976, ch. 612, Art. 1, § 4, eff. Sept. 1, 1971.

§ 21.089. Approval of Plans

(a) After a water quality management plan has been prepared or significantly revised, as authorized in Section 21.088 of this code, it shall be submitted to the board and to such local governments and other federal, state, and local governmental agencies as in the judgment of the board or the executive director may be affected by or have a legitimate interest in the plan.

(b) After a reasonable period of time as determined by the board for the persons to whom the plan was submitted to review and consult on the plan, a public hearing shall be held on whether the plan should be approved or whether the plan should be modified in any way. Notice of the hearing shall be given to the person or persons who prepared or revised the plan and to the persons to whom the plan was submitted for review.

(c) After the public hearing if the board finds that the plan complies with the policy and purpose of this chapter and the rules and policies of the board, it shall approve the plan. If the board does not so find, it may disapprove the plan, modify the plan as necessary so that it will comply, or return it for further development and later resubmission to the board, in accordance with the procedure in Section 21.088 and this code.

(d) When a water quality management plan has been approved as provided in this section, the plan may be furnished to the Federal Environmental Protection Agency, the Federal Water Quality Administration, or any other federal official or agency in fulfillment of any federal water quality management planning requirement specified for any purpose by the federal government.

(e) The board may use an approved water quality management plan, or a plan in progress but not completed or approved, in reviewing and making determinations on applications for permits and on applications for financial assistance for construction of treatment works. (60th Legis., Ch. 313, Sec. 3.27, as amended.)

Amended by Acts 1971, 62nd Leg., p. 1977, ch. 612, Art. 1, § 4, eff. Sept. 1, 1971.

§ 21.0891. Construction

As used in House Bill No. 1440, Acts of the 62nd Legislature, Regular Session, 1971,¹ "construction" includes:

- (1) preliminary planning to determine the economic and engineering feasibility of the project;
- (2) engineering, architectural, legal, fiscal, and economic investigations and studies;
- (3) surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of the project;
- (4) erection, building, acquisition, alteration, remodeling, improvement, and extension; and
- (5) inspection and supervision.

Acts 1971, 62nd Leg., p. 110, ch. 58, § 21.0891, added by Acts 1971, 62nd Leg., p. 1775, ch. 518, § 23, eff. May 31, 1971.

¹ Vernon's Ann.Civ.St. art. 7621d-1.

§ 21.090. Fiscal Control on Water Quality Management Planning

"In administering the program for making grants and loans to and contracting with local governments, regional planning commissions, and planning agencies, as authorized in Subsection (c) of Section 21.088 of this code, the board shall adopt rules and procedures for the necessary engineering review and supervision, fiscal control, and fund accounting. The fiscal control and fund accounting procedures are supplemental to other procedures prescribed by law. ((S. B. No. 835)) (60th Legis., Ch. 313, Sec. 3.28, as amended.)

Amended by Acts 1971, 62nd Leg., p. 1978, ch. 612, Art. 1, § 4, eff. Sept. 1, 1971.

§ 21.091. Accidental Discharges and Spills

(a) As used in this section:

- (1) "Accidental discharge" means an act or omission through which waste or other substances are inadvertently discharged into water in the state.
- (2) "Spill" means an act or omission through which waste or other substances are deposited where, unless controlled or removed, they will drain, seep, run, or otherwise enter water in the state.

(3) "Other substances" means substances which may be useful or valuable and therefore are not ordinarily considered to be waste, but which will cause pollution if discharged into water in the state. (60th Legis., Ch. 313, Sec. 3.30, subsec. (a), as amended.)

(b) Whenever an accidental discharge or spill occurs at or from any activity or facility which causes or may cause pollution, the individual operating, in charge of, or responsible for the activity or facility shall notify the office of the board as soon as possible and not later than 24 hours after the occurrence. (60th Legis., Ch. 313, Sec. 3.30, subsec. (b), as amended.)

(c) Activities which are inherently or potentially capable of causing or resulting in the spillage or accidental discharge of waste or other substances, and which pose serious or significant threats of pollution, are subject to reasonable rules or orders establishing safety and preventive measures which the board may adopt or issue. The safety and preventive measures which may be required shall be commensurate with the potential harm which could result from the escape of the waste or other substances. (60th Legis., Ch. 313, Sec. 3.30, subsec. (c), as amended.)

(d) The provisions of this section are cumulative of the other provisions in this chapter relating to waste discharges, and nothing in this section exempts any person from complying with or being subject to any other provision of this chapter. (60th Legis., Ch. 313, Sec. 3.30, subsec. (d), as amended.)

§ 21.092. Control of Certain Waste Discharges by Rule

Whenever the board determines that the quality of water in an area is adversely affected or threatened by the combined effects of several relatively small-quantity discharges of wastes being made for which it is not practical to issue individual permits, or that the general nature of a particular type of activity which produces a waste discharge is such that requiring individual permits is unnecessarily burdensome both to the waste discharger and the board, the board may, by rule, regulate and set the requirements and conditions for the discharges of waste. (60th Legis., Ch. 313, Sec. 3.31, as amended.)

§ 21.093. Health Hazards

The board may use any means provided by this chapter to prevent a discharge of waste that is injurious to public health. (60th Legis., Ch. 313, Sec. 3.32, as amended.)

§ 21.094. Monitoring and Reporting

The board may prescribe reasonable requirements for a person making waste discharges to monitor and report on his waste collection, treatment, and disposal activities. When in the judgment of the board significant water quality management benefits will result or water quality management needs justify, the board may also prescribe reasonable requirements for any person or persons making waste discharges to monitor and report on the quality of any water in the state which the board has reason to believe may be materially affected by the waste discharges. (60th Legis., Ch. 313, Sec. 3.33, as amended.)

§ 21.095. The State of Texas Water Pollution Control Compact

(a) The legislature recognizes that various river authorities (as defined in Article 7621g, Vernon's Texas Civil Statutes¹ and/or Chapter 25 of this code) and municipal water districts and authorities of the state have signed, and that others are authorized to sign and may sign, a document entitled "The State of Texas Water Pollution Control Compact," (hereinafter called the "Compact") which was approved by Order of the Texas Water Quality Board on March 26, 1971, and which is now on file

in the official records of said board, wherein each of the signatories is by law an official agency of the state, created pursuant to Article XVI, Section 59 of the Texas Constitution, and operating on a multiple county or regional basis; and that collectively those signatories constitute an agency of the state authorized to agree to pay, and to pay, for and on behalf of the state, not less than twenty-five per centum of the estimated costs of all water pollution control projects in the state, wherever located, for which federal grants are to be made pursuant to clause (7) of subsection (b) of Section 1158 of Title 33 of the United States Code (the Federal Water Pollution Control Act), as amended,² or any similar law, in accordance with and subject to the terms and conditions of the Compact. The Compact provides a method for taking advantage of increased federal grants for water pollution control projects by virtue of the state payment, which will be made from the proceeds from the sale of bonds by the signatories to the Compact. The Compact is hereby ratified and approved, and it is hereby provided that Section 4a of Article 7621g, Vernon's Texas Civil Statutes and/or Section 25.026 of this code shall not constitute a limitation or restriction on any signatory, with respect to any contract entered into pursuant to the Compact or with respect to any water pollution control project in the state, wherever located, for which the aforesaid federal grants are to be made, and such signatory shall not be required to obtain the consent of any other river authority or conservation and reclamation district, which is not a signatory, with respect to any such contract or project. Each signatory to the Compact is empowered and authorized to do any and all things, and to take any and all action, and to execute any and all contracts and documents, which are necessary or convenient in carrying out the purposes and objectives of the Compact and issuing bonds pursuant thereto, with reference to any water pollution control project in the state, wherever located, for which the aforesaid federal grants are to be made.

(b) It is further found, determined, and enacted that all bonds issued pursuant to said Compact, and all bonds issued to refund or refinance same, are and will be for water quality enhancement purposes, within the meaning of Article III, Section 49-d-1, of the Texas Constitution, and any and all bonds issued by a signatory to said Compact to pay for all or any part of a project pursuant to the Compact, and any bonds issued to refund or refinance any such bonds, may be purchased by the Texas Water Development Board, upon the direction of the Texas Water Quality Board, with money received from the sale of Texas Water Development Board bonds pursuant to said Article III, Section 49-d-1 of the Texas Constitution. Said bonds or refunding bonds shall be purchased directly from any such signatory at such price as is necessary to provide the state payment and any other part of the cost of the project, or necessary to accomplish the refunding; and all such purchases shall constitute loans for water quality enhancement. Said bonds or refunding bonds shall have the characteristics and be issued upon such terms and conditions as are acceptable to the Texas Water Quality Board. The proceeds received by any such signatory from the sale of any such bonds shall be used to provide the state payment pursuant to the Compact and any other part of the cost of the project; and the proceeds from the sale of any such refunding bonds to refund any outstanding bonds issued pursuant to the Compact shall be used to pay off and retire the bonds being refunded thereby.

(c) It is further enacted and provided that the provisions of the foregoing paragraphs (a) and (b) shall be effective immediately upon enactment, notwithstanding the fact that other provisions of this code will not become effective until September 1, 1971.

(d) This subsection is not intended to interfere in any way with the operation of Article III, Section 49-d-1 of the Texas Constitution or the enabling legislation enacted pursuant thereto, and the aforesaid Compact

shall constitute merely a complementary or supplemental method for providing the state payment solely in instances that it is deemed necessary or advisable by the Texas Water Quality Board, particularly during the initial period while the procedures for implementing Article III, Section 49-d-1 are being established and put into effective operation.

Added by Acts 1971, 62nd Leg., p. 1771, ch. 518, § 20, eff. May 31, 1971.

¹ Repealed by Acts 1971, 62nd Leg., p. 658, ch. 58, § 2.

² 33 U.S.C.A. § 1158(b) (7).

[Sections 21.096 to 21.200 reserved for expansion]

SUBCHAPTER D. REGIONAL AND AREA-WIDE SYSTEMS

Section 21.201. Regional or Area-Wide Systems; General Policy

(a) The legislature finds and declares that it is necessary to the health, safety, and welfare of the people of this state to implement the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state. (60th Legis., Ch. 313, Sec. 3.29, subsec. (a), sen. 1, as amended.)

(b) Within any standard metropolitan statistical area in the state, the board is authorized to implement this policy in the manner and in accordance with the procedure provided in Sections 21.201-21.205 of this code.

(c) In those portions of the state which are not within a standard metropolitan statistical area, the board shall observe this state policy by encouraging interested and affected persons to cooperate in developing and using regional and area-wide systems. The board may not use the procedure specified in Sections 21.201-21.205 of this code in these areas to implement this policy. However, this does not affect or diminish any authority which the board may otherwise have and exercise under other provisions of this chapter. (60th Legis., Ch. 313, Sec. 3.29, subsec. (a), sen. 2, 3, as amended.)

(d) The term "standard metropolitan statistical area," as used in this section, means an area consisting of a county or one or more contiguous counties which is officially designated as such by the United States Bureau of the Budget or its successor in this function. (60th Legis., Ch. 313, Sec. 3.29, subsec. (a), sen. 4, as amended.)

§ 21.202. Hearing to Define Area of Regional or Area-Wide Systems

(a) Whenever it appears to the board that because of the existing or reasonably foreseeable residential, commercial, industrial, recreational, or other economic development in an area a regional or area-wide waste collection, treatment, or disposal system or systems are necessary to prevent pollution or maintain and enhance the quality of the water in the state, the board may hold a public hearing in or near the area to determine whether the policy stated in Section 21.201 of this code should be implemented in that area.

(b) Notice of the hearing shall be given to the local governments which in the judgment of the board may be affected. (60th Legis., Ch. 313, Sec. 3.29, subsec. (b), sen. 1, 2, as amended.)

(c) If after the hearing the board finds that a regional or area-wide system or systems are necessary or desirable to prevent pollution or maintain and enhance the quality of the water in the state, the board may enter an order defining the area in which such a system or systems are necessary or desirable. (60th Legis., Ch. 313, Sec. 3.29, subsec. (b), sen. 3, as amended.)

§ 21.203. Hearing to Designate Systems to Serve the Area Defined; Order; Etc.

(a) At the hearing held under Section 21.202 of this code, or at a subsequent hearing held in or near an area defined under Section 21.202 of this code, the board may consider whether to designate the person to provide a regional or area-wide system or systems to serve all or part of the waste collection, treatment, or disposal needs of the area defined.

(b) Notice of the hearing shall be given to the local governments and to owners and operators of any waste collection, treatment, and disposal systems who in the judgment of the board may be affected. (60th Legis., Ch. 313, Sec. 3.29, subsec. (c), sen. 1, 2, as amended.)

(c) If after the hearing the board finds that there is an existing or proposed system or systems then capable, or which in the reasonably foreseeable future will be capable, of serving the waste collection, treatment, or disposal needs of all or part of the area defined, and that the owners or operators of the system or systems are agreeable to providing the services, the board may enter an order designating the person to provide the waste collection, treatment, or disposal system or systems to serve all or part of the area defined. (60th Legis., Ch. 313, Sec. 3.29, subsec. (c), sen. 3, as amended.)

§ 21.204. Actions Available to Board After Designating Systems

(a) After the board has entered an order as authorized in Section 21.203 of this chapter, the board may, after public hearing and after giving notice of the hearing to the persons who in the judgment of the board may be affected, take any one or more of the following actions:

(1) enter an order requiring any person discharging or proposing to discharge waste into or adjacent to the water in the state in an area defined in an order entered under Section 21.202 of this code to use a regional or area-wide system designated under Section 21.203 of this code for the disposal of his waste;

(2) refuse to grant any permits for the discharge of waste, or to approve any plans for the construction or material alteration of any sewer system, treatment facility, or disposal system in an area defined in an order entered under Section 21.202 of this code unless the permits or plans comply and are consistent with any orders entered under Sections 21.201–21.205 of this code; or

(3) cancel or suspend any permit, or amend any permit in any particular, which authorizes the discharge of waste in an area defined in an order entered under Section 21.202 of this code. (60th Legis., Ch. 313, Sec. 3.29, subsec. (d), sen. 1, as amended.)

(b) Before exercising the authority granted in this section, the board shall find affirmatively:

(1) that there is an existing or proposed regional or area-wide system designated under Section 21.203 of this code which is capable, or which in the reasonably foreseeable future will be capable, of serving the waste collection, treatment, or disposal needs of the person or persons who are the subject of an action taken by the board under this section;

(2) that the owner or operator of the designated regional or area-wide system is agreeable to providing the service; and

(3) that it is feasible for the service to be provided on the basis of waste collection, treatment and disposal technology, engineering, financial, and related considerations existing at the time, exclusive of any loss of revenue from any existing or proposed waste collection, treatment, or disposal systems in which the person or persons who are the subject of an action taken under this section have an interest. (60th Legis., Ch. 313, Sec. 3.29, subsec. (d), sen. 2, as amended.)

§ 21.205. Rates for Services by Designated Systems

(a) On motion of any interested party and after a public hearing, the board may set reasonable rates for the furnishing of waste collection, treatment, or disposal services to any person by a regional or area-wide system designated under Section 21.203 of this code.

(b) Notice of the hearing shall be given to the owner or operator of the designated regional or area-wide system, the person requesting the hearing, and any other person who, in the judgment of the board, may be affected by the action taken by the board as a result of the hearing.

(c) After the hearing the board shall enter an order setting forth its findings and the rates which may be charged for the services by the owner or operator of the designated regional or area-wide system. (60th Legis., Ch. 313, Sec. 3.29, subsec. (e), as amended.)

[Sections 21.206 to 21.250 reserved for expansion]

**SUBCHAPTER E. PROHIBITION AGAINST POLLUTION;
ENFORCEMENT****Section 21.251. Unauthorized Discharges Prohibited**

(a) Except as authorized by a rule, regulation, permit, or other order issued by the board, or the executive director when authorized by the board, no person may:

(1) discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state;

(2) discharge other waste into or adjacent to any water in the state which in itself, or in conjunction with any other discharge or activity, causes, continues to cause, or will cause pollution of any of the water in the state; or

(3) commit any other act or engage in any other activity, which in itself, or in conjunction with any other discharge or activity, causes, continues to cause, or will cause pollution of any of the water in the state, unless the activity is under the jurisdiction of the Parks and Wildlife Department, the General Land Office, or the Texas Railroad Commission, in which case this Subdivision (3) does not apply. (60th Legis., Ch. 313, Sec. 4.01, subsec. (a), as amended.)

(b) In the enforcement of Subdivisions (2) and (3) of Subsection (a) of this section, consideration shall be given to the state of existing technology, economic feasibility, and the water quality needs of the waters that might be affected. (60th Legis., Ch. 313, Sec. 4.01, subsec. (b), as amended.)

(c) No person may cause, suffer, allow, or permit the discharge of any waste or the performance of any activity in violation of this chapter or of any rule, regulation, permit, or other order of the board. (60th Legis., Ch. 313, Sec. 4.01, subsec. (c), as amended.)

§ 21.252. Civil Penalty

A person who violates any provision of this chapter or any rule, regulation, permit, or other order of the board is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, to be recovered as provided in this subchapter. (60th Legis., Ch. 313, Sec. 4.01, subsec. (d), as amended.)

§ 21.253. Enforcement by Board

(a) Whenever it appears that a person has violated or is violating, or is threatening to violate, any provision of this chapter, or any rule, regu-

lation, permit, or other order of the board, then the board, or the executive director when authorized by the board, may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty.

(b) Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter or any rule, permit, or other order of the board, the district court shall grant the injunctive relief the facts may warrant. (60th Legis., Ch. 313, Sec. 4.02, subsec. (a), as amended.)

(c) At the request of the board, or the executive director when authorized by the board, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty, as authorized in Subsection (a) of this section. (60th Legis., Ch. 313, Sec. 4.02, subsec. (b), as amended.)

§ 21.254. Enforcement by Others

(a) Whenever it appears that a violation or threat of violation of any provision of Section 21.251 of this code or any rule, regulation, permit, or other order of the board has occurred or is occurring within the jurisdiction of a local government, exclusive of its extraterritorial jurisdiction, the local government, in the same manner as the board, may have a suit instituted in a district court through its own attorney for the injunctive relief or civil penalties or both, as authorized in Subsection (a) of Section 21.253 of this code, against the person who committed, or is committing or threatening to commit, the violation. This power may not be exercised by a local government unless its governing body adopts a resolution authorizing the exercise of the power. In a suit brought by a local government under this section, the board is a necessary and indispensable party. (60th Legis., Ch. 313, Sec. 4.03, subsec. (a), as amended.)

(b) Whenever it appears that a violation or a threat of violation of any provision of Section 21.251 of this code or any rule, regulation, permit, or other order of the board has occurred or is occurring that affects aquatic life or wildlife, the Parks and Wildlife Department, in the same manner as the board, may have a suit instituted in a district court for injunctive relief or civil penalties or both, as authorized in Section 21.253(a) of this code, against the person who committed or is committing, or is threatening to commit, the violation. The suit shall be brought in the name of the State of Texas through the county attorney or the district attorney, as appropriate, of the county where the defendant resides or in the county where the violation or threat of violation occurs. (60th Legis., Ch. 313, Sec. 4.03, subsec. (b), as amended.)

§ 21.255. Venue and Procedure

(a) A suit for injunctive relief or recovery of a civil penalty or for both injunctive relief and penalty may be brought either in the county in which the defendant resides or in the county in which the violation or threat of violation occurs. (60th Legis., Ch. 313, Sec. 4.04, subsec. (a), as amended.)

(b) In any suit brought to enjoin a violation or threat of violation of this chapter or any rule, regulation, permit, or other order of the board, the court may grant the board, the Parks and Wildlife Department, or the local government, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including temporary restraining orders after notice and hearing, temporary injunctions, and per-

manent injunctions. (60th Legis., Ch. 313, Sec. 4.04, subsec. (b), as amended.)

(c) A suit brought under this chapter shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court. (60th Legis., Ch. 313, Sec. 4.04, subsec. (c), as amended.)

(d) Either party may appeal from a final judgment of the court as in other civil cases. (60th Legis., Ch. 313, Sec. 4.04, subsec. (d), as amended.)

§ 21.256. Disposition of Civil Penalties

(a) All civil penalties recovered in suits instituted by the State of Texas under this chapter through the board or the Parks and Wildlife Department shall be paid to the General Revenue Fund of the State of Texas. (60th Legis., Ch. 313, Sec. 4.04, subsec. (e), as amended.)

(b) All civil penalties recovered in suits instituted by a local government or governments under this chapter shall be equally divided between the State of Texas and the local government or governments first instituting the suit, with 50 percent of the recovery to be paid to the General Revenue Fund of the State of Texas and the other 50 percent paid equally to the local government or governments first instituting the suit. (60th Legis., Ch. 313, Sec. 4.04, subsec. (f), as amended.)

§ 21.257. Board as Principal Authority

The Texas Water Quality Board is the principal authority in the state on matters relating to the quality of the water in the state. The board has the responsibility for establishing a water quality sampling and monitoring program for the state. All other state agencies engaged in water quality or water pollution control activities shall coordinate those activities with the board. (60th Legis., Ch. 313, Sec. 1.06, as amended.)

§ 21.258. Water Development Board: Groundwater Quality

The Texas Water Development Board shall investigate all matters concerning the quality of groundwater in the state and shall report its findings and recommendations to the Texas Water Quality Board. (60th Legis., Ch. 313, Sec. 1.07, sen. 1, as amended.)

§ 21.259. Duty of Parks and Wildlife Department

The Parks and Wildlife Department and its authorized employees shall enforce the provisions of this chapter to the extent that any violation affects aquatic life and wildlife as provided in Section 21.254(b) of this code. (60th Legis., Ch. 313, Sec. 1.08, as amended.)

§ 21.260. Duty of Health Department

The State Department of Health shall continue to apply the authority vested in it by Chapter 178, Acts of the 49th Legislature, 1945, as last amended by Chapter 446, Acts of the 57th Legislature, Regular Session, 1961 (Article 4477—1, Vernon's Texas Civil Statutes), in the abatement of nuisances resulting from pollution not otherwise covered by this chapter. The State Department of Health shall investigate and make recommendations to the board concerning the health aspects of matters related to the quality of the water in the state. (60th Legis., Ch. 313, Sec. 1.09, as amended.)

§ 21.261. Duties of Railroad Commission

The Texas Railroad Commission is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from activities associated with the exploration, development, and production of oil or gas. The commis-

sion may issue permits for the discharge of waste resulting from these activities; and discharge of waste into water in this state resulting from these activities shall meet the water quality standards established by the board. (60th Legis., Ch. 313, Sec. 1.10, sen. 1, 2, as amended.)

§ 21.262. Act of God, War, Etc.

Any pollution, or any discharge of waste without a permit or in violation of a permit, caused by an act of God, war, strike, riot, or other catastrophe is not a violation of this chapter. (60th Legis., Ch. 313, Sec. 4.05, as amended.)

§ 21.263. Effect on Private Remedies

Nothing in this chapter affects the right of any private corporation or individual to pursue any available common-law remedy to abate a condition of pollution or other nuisance or to recover damages. (60th Legis., Ch. 313, Sec. 1.11, as amended.)

§ 21.264. Secret Processes, Etc.

Nothing in this chapter requires any person to disclose any classified data of the federal government or any confidential information relating to secret processes or economics of operation. (60th Legis., Ch. 313, Sec. 1.12, as amended.)

§ 21.265. Effect on Other Laws

(a) Nothing in this chapter affects the powers and duties of the Texas Water Quality Board and the Texas Railroad Commission with respect to injection wells as provided in Chapter 22 of this code.

(b) The Texas Water Development Board and the Texas Water Well Drillers Board shall continue to exercise the authority granted to them in Chapter 264, Acts of the 59th Legislature, Regular Session, 1965 (Article 7621e, Vernon's Texas Civil Statutes). (60th Legis., Ch. 313, Sec. 1.07, sen. 2, 3; Sec. 1.10, sen. 3, as amended.)

[Sections 21.266 to 21.350 reserved for expansion]

SUBCHAPTER F. AUTHORITY OF LOCAL GOVERNMENTS

Section 21.351. Inspection of Public Water

A local government may inspect the public water in its area and determine whether or not:

- (1) the quality of the water meets the state water quality standards adopted by the board;
- (2) persons discharging effluent into the public water located in the areas of which the local government has jurisdiction have obtained permits for discharge of the effluent; and
- (3) persons who have permits are making discharges in compliance with the requirements of the permits. (60th Legis., Ch. 313, Sec. 5.01, as amended.)

§ 21.352. Recommendations to Board

A local government may make written recommendations to the board as to what in its judgment the water quality standards should be for any public water within its territorial jurisdiction. (60th Legis., Ch. 313, Sec. 5.02, as amended.)

§ 21.353. Power to Enter Property

(a) A local government has the same power as the board has under Section 21.064 of this code to enter public and private property within its territorial jurisdiction to make inspections and investigations of conditions relating to water quality. The local government in exercising this power is subject to the same provisions and restrictions as the board.

(b) When requested by the board, the result of any inspection or investigation made by the local government shall be transmitted to the board for its consideration. (60th Legis., Ch. 313, Sec. 5.03, as amended.)

§ 21.354. Enforcement Action

A local government may bring an enforcement action under this chapter in the manner provided in Subchapter E of this chapter for local governments. (60th Legis., Ch. 313, Sec. 5.04, as amended.)

§ 21.355. Cooperative Agreements

A local government may execute cooperative agreements with the board or other local governments:

(1) to provide for the performance of water quality management, inspection, and enforcement functions and to provide technical aid and educational services to any party to the agreement; and

(2) for the transfer of money or property from any party to the agreement to another party to the agreement for the purpose of water quality management, inspection, enforcement, technical aid and education, and the construction, ownership, purchase, maintenance, and operation of disposal systems.

(b) Whenever in the opinion of the board it would facilitate and enhance the performance by a local government of its water quality management, inspection, and enforcement functions pursuant to a cooperative agreement between the local government and the board, as authorized in Subsection (a) of this section, the board may assign and delegate to the local government during the period of the agreement such of the pertinent powers and functions vested in the board under this chapter as in the judgment of the board may be necessary or helpful to the local government in performing those management, inspection, and enforcement functions.

(c) At anytime and from time to time, prior to the termination of the cooperative agreement, the board may modify or rescind any such assignment or delegation.

(d) The board shall notify immediately a local government to whom it assigns or delegates any powers and functions pursuant to Subsections (b) and (c) of this section or as to when it modifies or rescinds any such assignment or delegation. (S. B. 835) (60th Legis., Ch. 313, Sec. 5.05, as amended.)

Amended by Acts 1971, 62nd Leg., p. 1978, ch. 612, Art. 1, § 5, eff. Sept. 1, 1971.

§ 21.356. Disposal System Rules

(a) Every local government which owns or operates a disposal system is empowered to and shall, except as authorized in Subsection (c) of this section, enact and enforce rules, regulations, ordinances, orders, or resolutions, referred to in this section as rules, to control and regulate the type, character, and quality of waste which may be discharged to the disposal system and, where necessary, to require pretreatment of waste to be discharged to the system, so as to protect the health and safety of personnel maintaining and operating the disposal system and to prevent unreasonable adverse effects on the disposal system.

(b) The local government in its rules may establish the charges and assessments which may be made to and collected from all persons who

discharge waste to the disposal system or who have conduits or other facilities for discharging waste connected to the disposal system, referred to in this subsection as 'users.' The charges and assessments shall be equitable as between all users and shall correspond as near as can be practically determined to the cost of making the waste disposal services available to all users and of treating the waste of each user or class of users. The charges and assessments may include user charges, connection fees, or any other methods of obtaining revenue from the disposal system available to the local government. In establishing the charges and assessments, the local government shall take into account:

(1) the volume, type, character, and quality of the waste of each user or class of users;

(2) the techniques of treatment required;

(3) any capital costs and debt retirement expenses of the disposal system required to be paid for from the charges and assessments;

(4) the costs of operating and maintaining the system to comply with this chapter and the permits, rules, and orders of the board; and

(5) any other costs directly attributable to providing the waste disposal service under standard, accepted cost-accounting practices.

(c) A local government may apply to the board for an exception from the requirements of Subsections (a) and (b) of this section or for a modification of those requirements. The application shall contain the exception or modifications desired, the reasons the exception or modifications are needed, and the grounds authorized in this subsection on which the board should grant the application. A public hearing on the application shall be held in or near the territorial area of the local government and notice of the hearing shall be given to the local government. If after the hearing the board in its judgment determines that the volume, type, character, and quality of the waste of the users of the system, or of a particular user or class of users of the system, do not warrant the enactment and enforcement of rules containing the requirements prescribed in Subsections (a) and (b) of this section, or that the enactment and enforcement of the rules would be impractical or unreasonably burdensome on the local government in relation to the public benefit to be derived, then the board in its discretion may enter an order granting an exception to those requirements or modifying those requirements in any particular in response to circumstances shown to exist.

(d) At any time and from time to time, as circumstances may require, the board may amend or revoke any order it enters pursuant to Subsection (c) of this section. Before the board amends or revokes such an order, a public hearing shall be held in or near the territorial area of the local government in question, and notice of the hearing shall be given to the local government. If after the hearing the board in its judgment determines that the circumstances on which it based the order have changed significantly or no longer exist, the board may revoke the order or amend it in any particular in response to the circumstances then shown to exist.

(e) In the event of any conflict between the provisions of this section and any other laws or parts of laws, the provisions of this section shall control. ((S. B. No. 835))

Added by Acts 1971, 62nd Leg., p. 1978, ch. 612, Art. 1, § 6, eff. Sept. 1, 1971.

§ 21.357. Water Pollution Control Duties of Cities

(a) Every city in this state having a population of 5,000 or more inhabitants shall, and any city of this state may, establish a water pollution control and abatement program for the city. The city shall employ or re-

tain an adequate number of personnel, on either a part-time or full-time basis as the needs and circumstances of the city may require, who by virtue of their training or experience are qualified to perform the water pollution control and abatement functions required to enable the city to carry out its duties and responsibilities under this section.

(b) The water pollution control and abatement program of a city shall encompass the entire city and may include areas within its extraterritorial jurisdiction which in the judgment of the city should be included to enable the city to achieve the objectives of the city for the area within its territorial jurisdiction. The city shall include in the program the services and functions which, in the judgment of the city or as may be reasonably required by the board, will provide effective water pollution control and abatement for the city, including the following services and functions:

(1) the development and maintenance of an inventory of all significant waste discharges into or adjacent to the water within the city and, where the city so elects, within the extraterritorial jurisdiction of the city, without regard to whether or not the discharges are authorized by the board;

(2) the regular monitoring of all significant waste discharges included in the inventory prepared pursuant to Subdivision (1) of this subsection;

(3) the collecting of samples and the conducting of periodic inspections and tests of the waste discharges being monitored to determine whether the discharges are being conducted in compliance with this chapter and any applicable permits, orders or regulations of the board, and whether they should be covered by a permit from the board;

(4) in cooperation with the board, a procedure for obtaining compliance by the waste dischargers being monitored, including where necessary the use of legal enforcement proceedings; and

(5) the development and execution of reasonable and realistic plans for controlling and abating pollution or potential pollution resulting from generalized discharges of waste which are not traceable to a specific source, such as storm sewer discharges and urban runoff from rainwater. (S. B. No. 835)

Added by Acts 1971, 62nd Leg., p. 1980, ch. 612, Art. 1, § 7, eff. Sept. 1, 1971.

[Sections 21.358 to 21.450 reserved for expansion]

SUBCHAPTER G. JUDICIAL REVIEW

Section 21.451. Appeal of Board Action

(a) A person affected by any ruling, order, decision, or other act of the board may appeal by filing a petition in a district court of Travis County or in a district court of the county of his residence.

(b) The petition must be filed within 30 days after the date of the board's action, or, in case of a ruling, order, or decision, within 30 days after its effective date.

(c) Service of citation on the board must be accomplished within 30 days after the date the petition is filed. Citation may be served on the executive director or the deputy director.

(d) The plaintiff shall pursue his action with reasonable diligence. If the plaintiff does not prosecute his action within 18 months after the action is filed, the court shall presume that the action has been abandoned.

The court shall dismiss the suit on a motion for dismissal made by the attorney general unless the plaintiff, after receiving due notice, can show good and sufficient cause for the delay.

(e) In an appeal of a board action other than cancellation or suspension of a permit, the issue is whether the action is invalid, arbitrary, or unreasonable.

(f) An appeal of the cancellation or suspension of a permit shall be tried in the same manner as appeals from the justice court to the county court. (60th Legis., Ch. 313, Sec. 6.01, as amended.)

[Sections 21.452-21.550 reserved for expansion]

SUBCHAPTER H. CRIMINAL PROSECUTION

Section 21.551. Definitions

As used in this subchapter:

(1) "Water" includes both surface and subsurface water; and "water in the state" means any water within the jurisdiction of the state.

(2) "Water pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, any of the water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or public enjoyment of the water for any lawful or reasonable purpose.

(3) "Person" means an individual or private corporation.

(4) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste defined in this section.

(5) "Sewage" means waterborne human or animal wastes from residences, buildings, industrial establishments, cities, towns, or other places together with groundwater infiltration and surface water with which it is commingled.

(6) "Municipal waste" means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that result from any discharge arising within or emanating from, or subject to the control of any municipal corporation, city, town, village, or municipality.

(7) "Recreational waste" means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that arise within or emanate from any public or private park, beach, or recreational area.

(8) "Agricultural waste" means waterborne liquid, gaseous, solid, or other waste substance that arises from any type of public or private agricultural activity, including poisons and insecticides used in agricultural activities.

(9) "Industrial waste" means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that result from any process of industry, manufacturing, trade, or business.

(10) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste, that may cause the quality of water in the state to be impaired.

(11) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of. (P.C. Art. 698c, Sec. 1, as added.)

§ 21.552. Criminal Offense

(a) No person may discharge, or cause or permit the discharge of, any waste into or adjacent to any water in the state which causes or which will cause water pollution unless the waste is discharged in compliance with a permit or other order issued by the Texas Water Quality Board, the Texas Water Development Board, or the Texas Railroad Commission.

(b) No person to whom the Texas Water Quality Board has issued a permit or other order authorizing the discharge of any waste at a particular location may discharge, or cause or permit the discharge of, the waste in violation of the requirements of the permit or order. (P.C. Art. 698c, Sec. 2, 3, as added.)

§ 21.553. Criminal Penalty

A person who violates the provisions of Section 21.552 of this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense. (P.C. Art. 698c, Sec. 4, as added.)

§ 21.554. Peace Officers

For purposes of this subchapter, the authorized agents and employees of the Parks and Wildlife Department are constituted peace officers. These agents and employees are empowered to enforce the provisions of this subchapter the same as any other peace officer, and for such purpose shall have the powers and duties of peace officers as set forth in the Code of Criminal Procedure. (P.C. Art. 698c, Sec. 5, as added.)

§ 21.555. Act of God, War, Etc.

Any waste discharge otherwise punishable under this subchapter which is caused by an act of God, war, riot, or other catastrophe, is not a violation of this subchapter. (P.C. Art. 698c, Sec. 6, as added.)

§ 21.556. Venue

Venue for prosecution of any alleged violation is in the county court, the county criminal court, or the county court-at-law of the county in which the violation is alleged to have occurred. (P.C. Art. 698c, Sec. 7, as added.)

§ 21.557. Allegations

In alleging the name of a defendant private corporation, it is sufficient to state in the complaint, indictment, or information the corporate name, or to state any name or designation by which the corporation is known or may be identified. It is not necessary to allege that the defendant was lawfully incorporated. (P.C. Art. 698c, Sec. 8, as added.)

§ 21.558. Summons and Arrest

(a) After a complaint is filed or an indictment or information presented against a private corporation under the provisions of this subchapter, the court or clerk shall issue a summons to the corporation. The summons shall be in the same form as a *capias* except that:

(1) it shall summon the corporation to appear before the court named at the place stated in the summons;

(2) it shall be accompanied by a certified copy of the complaint, indictment, or information; and

(3) it shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 20 days after it is served with summons, except when service is made upon the secretary of state, in which instance the summons shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 30 days after the secretary of state is served with summons.

(b) No individual may be arrested upon a complaint, indictment, or information against a private corporation. (P.C. Art. 698c, Sec. 9, as added.)

§ 21.559. Service of Summons

(a) A peace officer shall serve a summons on a private corporation by personally delivering a copy of it to the corporation's registered agent for service. If a registered agent has not been designated or cannot, with reasonable diligence, be found at the registered office, the peace officer shall serve the summons by personally delivering a copy of it to the president or a vice president of the corporation.

(b) If the peace officer certifies on the return that he diligently but unsuccessfully attempted to effect service under Subsection (a) of this section, or if the corporation is a foreign corporation that has no certificate of authority, he shall serve the summons on the secretary of state by personally delivering a copy of it to him, or to the assistant secretary of state, or to any clerk in charge of the corporation department of his office. On receipt of the summons copy, the secretary of state shall immediately forward it by certified or registered mail, return receipt requested, addressed to the defendant corporation at its registered office or, if it is a foreign corporation, at its principal office in the state or country under whose law it was incorporated.

(c) The secretary of state shall keep a permanent record of the date and time of receipt and his disposition of each summons served under Subsection (b) of this section together with the return receipt. (P.C. Art. 698c, Sec. 10, as added.)

§ 21.560. Arraignment and Pleadings

In all criminal actions instituted against a private corporation under the provisions of this subchapter:

- (1) appearance is for the purpose of arraignment; and
- (2) the corporation has 10 full days after the day the arraignment takes place and before the day the trial begins to file written pleadings. (P.C. Art. 698c, Sec. 11, as added.)

§ 21.561. Appearance

(a) A defendant private corporation appears through counsel or its representative.

(b) If a private corporation does not appear in response to summons, or appears but fails or refuses to plead, it is considered to be present in person for all purposes, and the court shall enter a plea of not guilty in its behalf, and may proceed with trial, judgment, and sentencing.

(c) After appearing and entering a plea in response to summons, if a private corporation is absent without good cause at any time during later proceedings, it is considered to be present in person for all purposes, and the court may proceed with trial, judgment, or sentencing. (P.C. Art. 698c, Sec. 12, as added.)

§ 21.562. Fine Treated as Judgment in Civil Action

If a private corporation is found guilty of a violation of this subchapter and a fine imposed, the fine shall be entered and docketed by the clerk of the court as a judgment against the corporation, and the fine shall be of the same force and effect and be enforced against the corporation in the same manner as if the judgment were recovered in a civil action. (P.C. Art. 698c, Sec. 13, as added.)

§ 21.563. Cumulative Provisions

Nothing in this subchapter repeals or amends any of the provisions of Subchapters A through F of this chapter, Chapter 22 of this code, or Article 6029a, Revised Civil Statutes, 1925, as added; but this subchapter is cumulative of those acts and they remain in full force and effect. (P.C. Art. 698c, Sec. 15, as added.)

§ 21.564. Effect on Certain Other Laws

To the extent that any general or special law, including Article 695, Penal Code of Texas, 1925, makes an act or omission a criminal offense, and which act or omission also constitutes a criminal offense under this subchapter, the other general or special law is repealed, but only to that extent. (P.C. Art. 698c, Sec. 14, subsec. (b), as added.)

[Sections 21.565 to 21.600 reserved for expansion]

**Subchapter I. Financial Assistance For
Waste Treatment Construction**

Subchapter I was added to Chapter 21 by Acts 1971, 62nd Leg., p. 1980, ch. 612, Art. 1, § 8, which incorporated the provisions of Acts 1971, 62nd Leg., p. 1043, (H.B.No.1440) ch. 211, § 1, into the Water Code.

§ 21.601. Purpose

"The purpose of this subchapter is to provide for making loans of water quality enhancement funds authorized by Article III, Section 49-d-1, of the Texas Constitution, to political subdivisions of the state for use as state matching funds for obtaining maximum federal grants for the construction of treatment works.

Added by Acts 1971, 62nd Leg., p. 1980, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

§ 21.602. Definitions

In this subchapter:

(1) "Water quality enhancement" means the construction of treatment works by political subdivisions with loans provided under this subchapter.

(2) "Treatment works" means the various devices used in the treatment of waste, including necessary intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances and any extensions, improvements, remodeling, and alteration of and additions to these devices.

(3) "Construction" has the same meaning as defined in Section 21.0891 of this code.

(4) "Water quality enhancement funds" means the proceeds from the sale of Texas Water Development Bonds issued under the authority of Article III, Section 49-d-1, of the Texas Constitution.

(5) "Political subdivision" means the state, a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, and including any interstate compact commission to which the state is a party.

(6) "Loan" means purchase by the state of the bonds or other obligations of a political subdivision with water quality enhancement

funds or entry by the state into a loan agreement with any political subdivision for a direct loan of water quality enhancement funds.

(7) "Financial assistance" means any loan of water quality enhancement funds made to a political subdivision for the construction of treatment works through the purchase of bonds or other obligations of the political subdivision or pursuant to a loan agreement.

(8) "Development fund manager" means the fiscal administrator of the Texas Water Development Fund.

Added by Acts 1971, 62nd Leg., p. 1981, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

§ 21.603. Financial Assistance

The board may use water quality enhancement funds to provide financial assistance to political subdivisions for purposes of water quality enhancement.

Added by Acts 1971, 62nd Leg., p. 1981, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

§ 21.604. Authority of Political Subdivision

(a) A political subdivision may apply to the board for financial assistance and may use water quality enhancement funds to pay for construction of treatment works in the manner provided in this subchapter.

(b) A political subdivision may exercise any power necessary to apply for, receive, use, and repay water quality enhancement funds including the power to enter into loan contracts and agreements and to use any of its income and revenues to repay the loan.

Added by Acts 1971, 62nd Leg., p. 1981, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

§ 21.605. Application for Assistance

In an application to the board for financial assistance, the applicant shall include:

- (1) the name of the political subdivision and its principal officers;
- (2) a citation of the law under which the political subdivision operates and was created;
- (3) the total cost of the treatment works;
- (4) the amount of state financial assistance requested;
- (5) the method for obtaining the financial assistance, whether by purchase of bonds or other obligations of the political subdivision, by direct loan, or by a combination of these two methods;
- (6) the plan for repaying the financial assistance; and
- (7) any other information the board or the executive director requires to have an adequate understanding of proposals made in the application.

Added by Acts 1971, 62nd Leg., p. 1981, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

§ 21.606. Action on Application

(a) After an application is received for financial assistance, the executive director shall make application available for inspection by the Texas Water Development Board and shall submit the application to the board together with his comments and recommendations and the comments and recommendations of the development fund manager relating to the best method for making the financial assistance available.

(b) The board may grant the application in whole or in part or may deny the application.

(c) The board has the sole responsibility and authority for selecting the political subdivisions to whom financial assistance may be provided

and, in consultation with and pursuant to agreement with the political subdivision, shall determine the location, time, design, scope, and all other aspects of the construction to be performed.

(d) The board shall review and approve plans and specifications for all treatment works for which financial assistance is requested. The provisions of Section 12, Chapter 178, Acts of the 49th Legislature, Regular Session, 1945, as amended (Article 4477—1, Vernon's Texas Civil Statutes), do not apply to treatment works approved under this Act.

(e) Except as specifically provided in this Act, the deliberations, proposals, decisions, and other actions of the board under this subchapter do not require the concurrence or approval of any other governmental agency, board, commission, council, political subdivision, or other governmental entity.

Added by Acts 1971, 62nd Leg., p. 1982, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

§ 21.607. Considerations in Passing on Application

In passing on an application from a political subdivision for financial assistance, the board shall consider:

(1) the public benefit to be derived from the project and the propriety of state participation; and

(2) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the project, including interest.

Added by Acts 1971, 62nd Leg., p. 1982, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

§ 21.608. Conditions for Obtaining Financial Assistance

Before financial assistance is provided to a political subdivision, the following conditions must be met:

(1) the project must be approved by the board and, if applicable, the appropriate federal agency;

(2) the political subdivision must adopt any necessary ordinance, rule, order, or resolution which in the judgment of the board is necessary to comply with the contract and requirements of the federal government.

Added by Acts 1971, 62nd Leg., p. 1982, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

§ 21.609. Providing Financial Assistance

(a) There is created in the Texas Water Development Fund a separate account designated the "Water Quality Enhancement Account."

(b) The proceeds from the sale of bonds authorized by Article III, Section 49-d-1, of the Texas Constitution, shall be deposited in the water quality enhancement account.

(c) Money in the water quality enhancement account shall be used to provide loans for construction of treatment works in accordance with the provisions of this subchapter.

(d) Except as specifically provided in this subchapter, water development bonds authorized under Article III, Section 49-d-1, of the Texas Constitution shall be issued and sold and financial assistance from the water quality enhancement account shall be provided in the same form and manner as provided in Chapter 11 of this code, for issuing and selling other bonds and making other financial assistance available to political subdivisions.

(e) The Texas Water Development Board shall deliver funds pursuant to an application for financial assistance on request of the board.

(f) The Texas Water Development Board shall use the money in the water quality enhancement account to purchase bonds or other obliga-

tions of any political subdivision and for making direct loans for the purpose of providing money to the political subdivision for construction of treatment works.

(g) The bonds and other obligations purchased by the Texas Water Development Board with money from the water quality enhancement account shall bear the weighted average effective interest rate on all water development bonds previously sold for the purpose of providing loans for the construction of treatment works under this subchapter.

(h) The Texas Water Development Board shall establish within funds previously created appropriate accounts for separate handling of money derived from payment of interest of and principal on bonds and other obligations purchased from political subdivisions and repayment of direct loans made to political subdivisions.

(i) The provisions of Sections 11.401 and 11.403-11.405 and Subsection (b) of Section 11.402 of this code do not apply to financial assistance provided under this subchapter.

(j) The Texas Water Development Board may perform any acts which are necessary to carry out its functions under this subchapter.

Added by Acts 1971, 62nd Leg., p. 1982, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

§ 21.610. Direct Loans

(a) If a political subdivision in the judgment of the board is unable to issue bonds or other obligations for a project in the state for which a federal grant is to be made under the Federal Water Pollution Control Act, as amended, then the board may provide financial assistance to the political subdivision by agreeing to pay from water quality enhancement funds the amount required by federal law of the estimated reasonable cost of the project.

(b) Before the delivery of any water quality enhancement funds to the political subdivision, the board with the advice of the development fund manager and the political subdivision shall execute a loan agreement which shall provide that the political subdivision shall pay into the appropriate account not less than the amount necessary to repay the principal of and interest on the loan over the period of time and under the terms and conditions which are mutually agreeable to the Texas Water Development Board and the political subdivision. The contract may also include any other terms and conditions which the board may require.

(c) Each political subdivision may charge and collect necessary fees, rentals, rates, and charges for the use, occupancy, and availability of its treatment works and any of its other properties, buildings, structures, operations, utilities, systems, activities, and facilities, so that it may make all payments required by its loan agreement. The political subdivision shall pledge such amounts to make those payments.

(d) Also, the political subdivision may pledge its ad valorem taxes, if any, and levy and collect the taxes for the purpose of making all or any part of the payments required by its loan agreement. The taxes shall be in addition to all other ad valorem taxes permitted by law, but may not exceed, together with other ad valorem taxes, any maximum imposed by the Texas Constitution.

(e) Each loan agreement executed pursuant to this Act, and the appropriate proceedings authorizing its execution, shall be submitted to the attorney general for examination before the delivery of the money to the political subdivision. If he finds that the loan agreement has been authorized and executed in accordance with law, that the provisions are valid, and that the political subdivision has demonstrated to his reasonable

satisfaction that the payments required by the agreement can be made from the sources pledged, he may approve the agreement.

Added by Acts 1971, 62nd Leg., p. 1983, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

§ 21.611. Rules and Regulations

The board and the Texas Water Development Board may adopt any rules and regulations necessary to carry out the purpose provided in this subchapter and may cooperate in adopting any joint rules and regulations necessary to carry out the provisions of this chapter.

Added by Acts 1971, 62nd Leg., p. 1984, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

§ 21.612. Use of Funds; Federal Requirement Satisfied

When bonds or other obligations are purchased or a loan agreement is approved by the attorney general, water quality enhancement funds shall be delivered to the political subdivisions entitled to receive them and shall be used only to pay for construction costs of treatment works approved as provided in this subchapter. The purchase of bonds and other obligations as provided in Section 21.609 of this code and the making of direct loans as provided in Section 21.610 of this code together constitute payment by the state of the amount required by federal law of the estimated reasonable construction costs of all projects in the state for which federal grants are to be made under the Federal Water Pollution Control Act, as amended,¹ or any similar law. ((H. B. No. 1440))

Added by Acts 1971, 62nd Leg., p. 1984, ch. 612, Art. 1, § 8, eff. Sept. 1, 1971.

¹ 33 U.S.C.A. § 1151 et seq.

CHAPTER 22. DISPOSAL WELLS

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Section

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22.002. Definitions.

[Sections 22.003 to 22.010 reserved for expansion]

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SUBCHAPTER C. OIL AND GAS WASTE

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Section

- 22.033. Letter from Water Quality Board.
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[Sections 22.035 to 22.050 reserved for expansion]

**SUBCHAPTER D. ISSUANCE OF PERMITS:
 TERMS AND CONDITIONS**

- 22.051. Issuance of Permit.
 22.052. Copies of Permit; Filing Requirements.
 22.053. Record of Strata.
 22.054. Electric or Drilling Log.
 22.055. Casing Requirements.
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[Sections 22.057 to 22.100 reserved for expansion]

SUBCHAPTER E. CIVIL AND CRIMINAL REMEDIES

- 22.101. Civil Penalty.
 22.102. Injunction, Etc.
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SUBCHAPTER A. GENERAL PROVISIONS

Section 22.001. Short Title

This chapter may be cited as the Disposal Well Act. (57th Legis., Ch. 82, Sec. 1, as amended.)

§ 22.002. Definitions

In this chapter:

(1) "Board" means the Texas Water Quality Board. (57th Legis., Ch. 82, Sec. 2, Subsec. (a) as amended.)

(2) "Commission" means the Texas Railroad Commission.

(3) "Pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, water that makes it harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose. (57th Legis., Ch. 82, Sec. 2, Subsec. (b), (d), as amended.)

(4) "Industrial and municipal waste" means any liquid, gaseous, solid, or other waste substance, or combination of these substances, which may cause or might reasonably be expected to cause pollution of fresh water and which result from

(A) processes of industry, manufacturing, trade, or business;

(B) development or recovery of natural resources other than oil or gas; or

(C) disposal of sewage or other wastes of cities, towns, villages, communities, water districts, and other municipal corporations.

(5) "Oil and gas waste" means waste arising out of or incidental to drilling for or producing of oil or gas which includes, but is not limited to, salt water, brine, sludge, drilling mud, and other liquid or semiliquid waste material. (57th Legis., Ch. 82, Sec. 2, Subsec. (e), (i), as amended.)

(6) "Fresh water" means water having bacteriological, physical, and chemical properties which make it suitable and feasible for beneficial use for any lawful purpose.

(7) "Casing" means material lining used to seal off strata at and below the earth's surface.

(8) "Disposal well" means an artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method, and used to inject, transmit, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well initially drilled to produce oil and gas which is used to transmit, inject, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; but the term does not include any surface pit, surface excavation, or natural depression used to dispose of industrial and municipal waste or oil and gas waste. (57th Legis., Ch. 82, Sec. 2, Subsec. (f), (g), (h), as amended.)

[Sections 22.003 to 22.010 reserved for expansion]

SUBCHAPTER B. INDUSTRIAL AND MUNICIPAL WASTE

Section 22.011. Permit from Board

No person may begin drilling a disposal well or converting an existing well into a disposal well to dispose of industrial and municipal waste without first obtaining a permit from the Texas Water Quality Board. (57th Legis., Ch. 82, Sec. 3, Subsec. (a), sen. 1, as amended.)

§ 22.012. Application for Permit

The board shall prescribe forms for application for a permit and shall make the forms available on request without charge. (57th Legis., Ch. 82, Sec. 3, Subsec. (a), sen. 2, as amended.)

§ 22.013. Information Required of Applicant

The board shall require an applicant to furnish any information the board considers necessary to discharge its duties under this chapter. (57th Legis., Ch. 82, Sec. 3, Subsec. (a), sen. 3, as amended.)

§ 22.014. Application Fee

With each application, the board shall collect a fee of \$25 for the benefit of the state. (57th Legis., Ch. 82, Sec. 3, Subsec. (a), sen. 4, as amended.)

§ 22.015. Letter from Railroad Commission

A person making application to the board for a permit under this chapter shall submit with the application a letter from the commission stating that drilling the disposal well and injecting industrial and municipal waste into the subsurface stratum will not endanger or injure any oil or gas formation. (57th Legis., Ch. 82, Sec. 3, Subsec. (e), as amended.)

§ 22.016. Inspection of Well Location

On receiving an application for a permit, the board shall have an inspection made of the location of the proposed disposal well to determine the local conditions and the probable effect of the well, and shall

determine the requirements for the setting of casing, as provided in Sections 22.051, 22.055, and 22.056 of this code. (57th Legis., Ch. 82, Sec. 3, Subsec. (b), as amended.)

§ 22.017. Recommendations from Other Agencies

The board shall send to the Texas Water Development Board, the State Department of Health, the Texas Water Well Drillers Board, and to other persons which the board may designate, copies of every application received in proper form. These agencies and persons may make recommendations to the board concerning any aspect of the application, and shall have reasonable time to do so as the board may prescribe. (57th Legis., Ch. 82, Sec. 3, Subsec. (c), as amended.)

§ 22.018. Hearing on Permit Application

If it is considered necessary and in the public interest, the board may hold a public hearing on the application. (57th Legis., Ch. 82, Sec. 3, Subsec. (d), sen. 1, as amended.)

§ 22.019. Board Rules, Etc.

(a) The board shall adopt rules, regulations, and procedures reasonably required for the performance of its powers, duties, and functions under this chapter, including rules for notice and procedure of public hearings. (57th Legis., Ch. 82, Sec. 3, Subsec. (d), sen. 2; and Sec. 5, sen. 9, as amended.)

(b) Copies of any rules or regulations under this chapter proposed by the board shall, before their adoption, be sent to the Texas Railroad Commission, the Texas Water Development Board, the State Department of Health, the Texas Water Well Drillers Board, and any other persons the board may designate. Any agency or person to whom the copies of proposed rules and regulations are sent may submit comments and recommendations to the board, and shall have reasonable time to do so as the board may prescribe. (57th Legis., Ch. 82, Sec. 5, sen. 10, 11, as amended.)

[Sections 22.020 to 22.030 reserved for expansion]

SUBCHAPTER C. OIL AND GAS WASTE

Section 22.031. Permit from Commission

No person may begin drilling a disposal well or converting an existing well into a disposal well to dispose of oil and gas waste without first obtaining a permit from the Railroad Commission of Texas. (57th Legis., Ch. 82, Sec. 4, Subsec. (a), sen. 1, as amended.)

§ 22.032. Information Required of Applicant

The commission shall require an applicant to furnish any information the commission considers necessary to discharge its duties under this chapter. (57th Legis., Ch. 82, Sec. 4, Subsec. (a), sen. 2 (part), as amended.)

§ 22.033. Letter from Water Quality Board

A person making application to the commission for a permit under this chapter shall submit with the application a letter from the board stating that drilling the disposal well and injecting oil and gas waste into the subsurface stratum will not endanger the freshwater strata in that area and that the formation or stratum to be used for the disposal is not freshwater sand. (57th Legis., Ch. 82, Sec. 4, Subsec. (b), as amended.)

§ 22.034. Commission Rules, Etc.

(a) The commission shall adopt rules, regulations, and procedures reasonably required for the performance of its powers, duties, and functions under this chapter, including rules for notice and procedure of public hearings. (57th Legis., Ch. 82, Sec. 4, Subsec. (a), sen. 2 (part), and Sec. 5, sen. 9, as amended.)

(b) Copies of any rules or regulations under this chapter proposed by the commission shall, before their adoption, be sent to the Texas Water Quality Board, the Texas Water Development Board, the State Department of Health, the Texas Water Well Drillers Board, and any other persons the commission may designate. Any agency or person to whom the copies of proposed rules and regulations are sent may submit comments and recommendations to the commission, and shall have reasonable time to do so as the commission may prescribe. (57th Legis., Ch. 82, Sec. 5, sen. 10, 11, as amended.)

[Sections 22.035 to 22.050 reserved for expansion]

**SUBCHAPTER D. ISSUANCE OF PERMITS:
TERMS AND CONDITIONS****Section 22.051. Issuance of Permit**

(a) The board or commission may grant an application in whole or in part and may issue the permit if it finds:

(1) that the installation of the disposal well is in the public interest;

(2) that no existing rights will be impaired; and

(3) that, with proper safeguards, both ground and surface fresh water can be adequately protected from pollution.

(b) In the permit the board or commission shall impose terms and conditions reasonably necessary to protect fresh water from pollution, including the necessary casing. (57th Legis., Ch. 82, Sec. 5, sen. 1, 2, as amended.)

§ 22.052. Copies of Permit; Filing Requirements

(a) The board shall furnish the commission, the Texas Water Development Board, the State Department of Health, and the Texas Water Well Drillers Board with a copy of each permit the board issues. The commission shall furnish the board with a copy of each permit the commission issues and the board shall in turn forward copies to the Texas Water Development Board, the State Department of Health, and the Texas Water Well Drillers Board. (57th Legis., Ch. 82, Sec. 5, sen. 7, 8, as amended.)

(b) Before beginning injection operations, a person receiving a permit to inject industrial and municipal waste shall file a copy of the permit with the health authorities of the county, city, and town where the well is located. (57th Legis., Ch. 82, Sec. 6, as amended.)

§ 22.053. Record of Strata

The board or commission may require a person receiving a permit under this chapter to keep and furnish a complete and accurate record of the depth, thickness, and character of the different strata penetrated in drilling the disposal well. (57th Legis., Ch. 82, Sec. 5, sen. 5, as amended.)

§ 22.054. Electric or Drilling Log

If an existing well is to be converted to a disposal well, the board or commission may require the applicant to furnish an electric log or a drilling log of the existing well. (57th Legis., Ch. 82, Sec. 5, sen. 6, as amended.)

§ 22.055. Casing Requirements

The casing shall be set at the depth, with the materials, and in the manner required by the board or commission. (57th Legis., Ch. 82, Sec. 5, sen. 3, as amended.)

§ 22.056. Factors in Setting Casing Depth

Before setting the depth to which casing shall be installed, the board or commission shall consider:

- (1) known geological and hydrological conditions and relationships;
- (2) foreseeable future economic development in the area; and
- (3) foreseeable future demand for the use of fresh water in the locality. (57th Legis., Ch. 82, Sec. 5, sen. 4, as amended.)

[Sections 22.057 to 22.100 reserved for expansion]

SUBCHAPTER E. CIVIL AND CRIMINAL REMEDIES**Section 22.101. Civil Penalty**

(a) A person who violates any provision of this chapter, any rule or regulation of the board or the commission made under this chapter, or any term, condition, or provision of a permit issued under this chapter shall be subject to a civil penalty in any sum not exceeding \$1,000 for each day of noncompliance and for each act of noncompliance. (57th Legis., Ch. 82, Sec. 7, sen. 1, as amended.)

(b) The action may be brought by the board or the commission in any court of competent jurisdiction in the county where the offending activity is occurring or where the defendant resides. (57th Legis., Ch. 82, Sec. 7, sen. 2, as amended.)

§ 22.102. Injunction, Etc.

The board or commission may enforce any valid rule or regulation made under this chapter, or any term or condition of a permit issued by the board or commission under this chapter, by injunction or other appropriate remedy. The suit shall be brought in a court of competent jurisdiction in the county where the offending activity is occurring. (57th Legis., Ch. 82, Sec. 7, sen. 3, as amended.)

§ 22.103. Procedure

(a) At the request of the board or commission, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both the injunctive relief and civil penalty, authorized in Sections 22.101 and 22.102 of this chapter. (57th Legis., Ch. 82, Sec. 7, sen. 4, as amended.)

(b) Any party to a suit may appeal from a final judgment as in other civil cases. (57th Legis., Ch. 82, Sec. 7, sen. 5, as amended.)

§ 22.104. Effect of Permit on Civil Liability

The fact that a person has a permit issued under this chapter does not relieve him from any civil liability. (57th Legis., Ch. 82, Sec. 7, sen. 6, as amended.)

CHAPTER 23. WATER WELLS**Section**

- 23.001. Definition.
- 23.002. Underground Water: Regulations.
- 23.003. Certain Wells to be Plugged or Cased.
- 23.004. Penalty.

Section 23.001. Definition

In this chapter, "commission" means the Texas Water Rights Commission. (New.)

§ 23.002. Underground Water: Regulations

The commission shall make and enforce rules and regulations for conserving, protecting, preserving, and distributing underground, subterranean, and percolating water located in this state, and shall do all other things necessary for these purposes. (42nd Legis., Ch. 261, Sec. 1, Sec. 4, and Sec. 6, sen. 1.)

§ 23.003. Certain Wells to be Plugged or Cased

The owner of a water well which encounters salt water or water containing mineral or other substances injurious to vegetation or agriculture shall securely plug or case the well in a manner that will effectively prevent the water from escaping from the stratum in which it is found into another water-bearing stratum or onto the surface of the ground. (42nd Legis., Ch. 261, Sec. 2.)

§ 23.004. Penalty

If the owner of a well that is required to be cased or plugged by this chapter fails or refuses to case or plug the well within the 30-day period following the date of the commission's order to do so, or if a person fails to comply with any other order issued by the commission under this chapter within the 30-day period following the date of the order, he is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$500; and he commits a separate offense each day the failure or refusal continues after the 30-day period. (42nd Legis., Ch. 261, Sec. 5, and Sec. 6, sen. 2.)

CHAPTER 24. SALT WATER HAULERS**SUBCHAPTER A. GENERAL PROVISIONS****Section**

- 24.001. Short Title.
- 24.002. Definitions.

[Sections 24.003 to 24.010 reserved for expansion]

SUBCHAPTER B. PERMITS

- 24.011. Application for Permit.
- 24.012. Application Form.
- 24.013. Contents of Application.
- 24.014. Rejecting an Application.

Section

- 24.015. Bond.
- 24.016. Expiration of Permit.
- 24.017. Renewal of Permit.
- 24.018. Suspension; Refusal to Renew.
- 24.019. Appeal.
- 24.020. Suit to Compel Commission to Act.
- 24.021. Venue.

[Sections 24.022 to 24.030 reserved for expansion]

SUBCHAPTER C. RULES

- 24.031. Rule-making Power.
- 24.032. Copies of Rules.
- 24.033. Effective Date of Rules.

[Sections 24.034 to 24.040 reserved for expansion]

SUBCHAPTER D. OFFENSES; PENALTIES

- 24.041. Hauling without Permit.
- 24.042. Exception.
- 24.043. Using Haulers without Permit.
- 24.044. Disposing of Salt Water.
- 24.045. Use of Unmarked Vehicles.
- 24.046. Penalty.

SUBCHAPTER A. GENERAL PROVISIONS**Section 24.001. Short Title**

This chapter may be cited as the Salt Water Haulers Act. (60th Legis., Ch. 355, Sec. 1.)

§ 24.002. Definitions

In this chapter, unless the context requires a different definition,

(1) "person" means an individual, association of individuals, partnership, corporation, receiver, trustee, guardian, executor, or a fiduciary or representative of any kind;

(2) "commission" means the Railroad Commission of Texas;

(3) "salt water" means water containing salt or other mineralized substances produced by drilling an oil or gas well or produced in connection with the operation of an oil or gas well; and

(4) "hauler" means a person who transports salt water for hire by any method other than by pipeline. (60th Legis., Ch. 355, Sec. 2.)

[Sections 24.003 to 24.010 reserved for expansion]

SUBCHAPTER B. PERMITS**Section 24.011. Application for Permit**

Any person may apply to the commission for a permit to haul and dispose of salt water. (60th Legis., Ch. 355, Sec. 3(a).)

§ 24.012. Application Form

The commission shall prescribe a form on which an application for a permit may be made and shall provide the form to any person who wishes to submit an application. (60th Legis., Ch. 355, Sec. 4(a).)

§ 24.013. Contents of Application

The application for a permit shall:

- (1) state the number of vehicles the applicant plans to use for salt water hauling;
- (2) affirmatively show that the vehicles are designed so that they will not leak during transportation of salt water;
- (3) include an affidavit from a person who operates an approved system of salt water disposal stating that the applicant has permission to use the approved system;
- (4) state the applicant's name, business address, and permanent mailing address; and
- (5) include other relevant information required by commission rules. (60th Legis., Ch. 355, Sec. 3(b).)

§ 24.014. Rejecting an Application

If an application for a permit does not comply with Section 24.013 of this code or with reasonable rules of the commission, the commission may reject the application. (60th Legis., Ch. 355, Sec. 4(b).)

§ 24.015. Bond

Before issuing a permit to a person whose application it has approved, the commission shall require the person to file with it a bond in the amount of \$5,000, guaranteed by a corporate surety company and conditioned on the payment of full damages to any person who may acquire a judgment against the permittee for damages done to the person's property by the permittee's improper hauling, handling, or disposal of salt water. However, the commission may dispense with the bond requirement on a proper showing of financial responsibility. (60th Legis., Ch. 355, Sec. 3(c).)

§ 24.016. Expiration of Permit

Permits issued under this chapter expire on August 31 of each year. (60th Legis., Ch. 355, Sec. 3(d), sen. 1.)

§ 24.017. Renewal of Permit

A permittee may apply to renew his permit by submitting an application for renewal on or before August 31 of each year. (60th Legis., Ch. 355, Sec. 3(d), sen. 2.)

§ 24.018. Suspension; Refusal to Renew

The commission shall suspend or shall refuse to renew a permit for a period of six months if the permittee:

- (1) violates the provisions of this chapter;
- (2) violates reasonable rules promulgated under Section 24.031 of this code; or
- (3) does not maintain his operation at the standards that entitled him to a permit under Section 24.013 of this code. (60th Legis., Ch. 355, Sec. 4(d).)

§ 24.019. Appeal

Any person whose permit application is refused, whose permit is suspended, or whose application for permit renewal is refused by the commission may file a petition in an action to set aside the commission's act within the 30-day period immediately following the day he receives notice of the commission's action. (60th Legis., Ch. 355, Sec. 5(a).)

§ 24.020. Suit to Compel Commission to Act

If the commission does not act within a reasonable time after a person applies for a permit or for renewal of a permit, the applicant may notify the commission of his intention to file suit; and after 10 days have elapsed since the day the notice was given, the applicant may file a petition in an action to compel the commission to show cause why it should not be directed by the court to take immediate action. (60th Legis., Ch. 355, Sec. 5(b).)

§ 24.021. Venue

The venue in actions under Sections 24.019 and 24.020 of this code is fixed exclusively in the district courts of Travis County. (60th Legis., Ch. 355, Sec. 5(c).)

[Sections 24.022 to 24.030 reserved for expansion]

SUBCHAPTER C. RULES**Section 24.031. Rule-making Power**

The commission shall adopt rules to effectuate the provisions of this chapter. (60th Legis., Ch. 355, Sec. 4(c), sen. 1.)

§ 24.032. Copies of Rules

The commission shall print the rules and provide copies to persons who apply for them. (60th Legis., Ch. 355, Sec. 4(c), sen. 2.)

§ 24.033. Effective Date of Rules

No rule or amendment to a rule is effective until after the 30-day period immediately following the day on which a copy of the rule is filed with the secretary of state. (60th Legis., Ch. 355, Sec. 4(c), sen. 3.)

[Sections 24.034 to 24.040 reserved for expansion]

SUBCHAPTER D. OFFENSES; PENALTIES**Section 24.041. Hauling without Permit**

No hauler may haul and dispose of salt water off the lease, unit, or other oil or gas property where it is produced unless the hauler has a permit issued under this chapter. (60th Legis., Ch. 355, Sec. 6.)

§ 24.042. Exception

A person may haul salt water for use in connection with drilling or servicing an oil or gas well without obtaining a hauler's permit under this chapter. (60th Legis., Ch. 355, Sec. 10.)

§ 24.043. Using Haulers without Permit

No person may knowingly utilize the services of a hauler to haul and dispose of salt water off the lease, unit, or other oil or gas property

where it is produced if the hauler does not have a permit as required under this chapter. (60th Legis., Ch. 355, Sec. 7.)

§ 24.044. Disposing of Salt Water

(a) No hauler may dispose of salt water on public roads or on the surface of public land or private property in this state in other than a commission-approved disposal pit without written authority from the commission.

(b) No hauler may dispose of salt water on property of another without the written authority of the landowner. (60th Legis., Ch. 355, Sec. 8.)

§ 24.045. Use of Unmarked Vehicles

No person who is required to have a permit under this chapter may haul salt water in a vehicle that does not bear the owner's name and the hauler's permit number. This information shall appear on both sides and the rear of the vehicle in characters not less than three inches high. (60th Legis., Ch. 355, Sec. 9.)

§ 24.046. Penalty

A person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than 10 days or by both. (60th Legis., Ch. 355, Sec. 11.)

CHAPTER 25. REGIONAL WASTE DISPOSAL**SUBCHAPTER A. GENERAL PROVISIONS****Section**

- 25.001. Short Title.
- 25.002. Purpose.
- 25.003. Definitions.
- 25.004. Cumulative Effect of Chapter.
- 25.005. Construction of Chapter.

[Sections 25.006 to 25.020 reserved for expansion]

SUBCHAPTER B. REGIONAL WASTE DISPOSAL SYSTEMS

- 25.021. Disposal System.
- 25.022. Purchase and Sale of Facilities.
- 25.023. Lease of Facilities.
- 25.024. Operating Agreements.
- 25.025. Waste Disposal Contracts by District.
- 25.026. Contracts by River Authority.
- 25.027. Contract with Public Agency.
- 25.028. Contract Provisions.
- 25.029. Continued Use of District Facilities.
- 25.030. Source of Contract Payments.
- 25.031. Rates.
- 25.032. Service to More Than One Public Agency.
- 25.033. Property Acquired by Condemnation or Otherwise.
- 25.034. Cost of Relocating, Altering, Etc.
- 25.035. Elections.

[Sections 25.036 to 25.050 reserved for expansion]

SUBCHAPTER C. DISTRICT REVENUE BONDS

Section

- 25.051. Issuance of Bonds.
- 25.052. Form, Denomination, Interest Rate.
- 25.053. Refunding Bonds.
- 25.054. Sale or Exchange of Bonds.
- 25.055. Interim Bonds.
- 25.056. Attorney General's Examination.
- 25.057. Registration by Comptroller.
- 25.058. Validation Suit.
- 25.059. Bonds Incontestable.
- 25.060. Negotiable Instruments.
- 25.061. Investment Securities under Uniform Commercial Code.
- 25.062. Bonds as Authorized Investments.
- 25.063. Security for Deposits.
- 25.064. Funds Set Aside from Bond Proceeds.
- 25.065. Investment of Proceeds.
- 25.066. Rates and Charges.

[Sections 25.067 to 25.100 reserved for expansion]

SUBCHAPTER D. RIVER AUTHORITY PLANNING

- 25.101. Authorization of Regional Plans.
- 25.102. Planning in Related Fields.
- 25.103. Joint Planning.
- 25.104. Coordination with Other Planning Agencies.
- 25.105. Financial Assistance.
- 25.106. Supervision by Water Quality Board.

SUBCHAPTER A. GENERAL PROVISIONS

Section 25.001. Short Title

This chapter may be cited as the Regional Waste Disposal Act. (60th Legis., Ch. 97, Sec. 1, sen. 2.)

§ 25.002. Purpose

The purpose of this chapter is to authorize public agencies to cooperate for the safe and economical collection, transportation, treatment, and disposal of waste in order to prevent and control pollution of water in the state. (60th Legis., Ch. 97, Sec. 1, sen. 1.)

§ 25.003. Definitions

In this chapter:

- (1) "City" means any incorporated city or town, whether operating under general law or under its home-rule charter.
- (2) "District" means any district or authority created and existing under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution, including any river authority.
- (3) "Public agency" means any district, city, or other political subdivision or agency of the state which has the power to own and operate waste collection, transportation, treatment or disposal facilities or systems, and any joint board created under the provisions of Section 14, Chapter 114, Acts of the 50th Legislature (Article 46d—14, Vernon's Texas Civil Statutes).

(4) "River authority" means any district or authority created by the legislature, which contains an area within its boundaries of one or more counties, and which is governed by a board of directors appointed or designated in whole or in part by the governor, or by the Texas Water Rights Commission, including without limitation the San Antonio River Authority.

(5) "River basins" and "coastal basins" mean the river basins and coastal basins now defined and designated by the Texas Water Development Board as separate units for the purposes of water development and inter-watershed transfers, and as they are made certain by contour maps on file in the offices of the Texas Water Development Board, including, but not limited to, the rivers and their tributaries, streams, water, coastal water, sounds, estuaries, bays, lakes, and portions of them, as well as the lands drained by them.

(6) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, waste heat, or other waste that may cause impairment of the quality of water in the state.

(7) The terms "sewage," "municipal waste," "recreational waste," "agricultural waste," "industrial waste," "other waste," "pollution," "water," or "water in the state," and "local government" shall have the meanings defined in the Texas Water Quality Act, codified in Chapter 21 of this code.

(8) "Sewer system" means pipelines, conduits, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste.

(9) "Treatment facility" means any plant, disposal field, lagoon, canal, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing, or stabilizing waste or facilities to provide cooling water to collect, control and dispose of waste.

(10) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities. (60th Legis., Ch. 97, Sec. 2, as amended.)

§ 25.004. Cumulative Effect of Chapter

(a) This chapter is cumulative of other statutes governing the Texas Water Quality Board, the State Department of Health, and the Texas Water Rights Commission relating to:

- (1) the issuance of bonds;
 - (2) the collection, transportation, treatment, or disposal of waste;
- and
- (3) the design, construction, acquisition, or approval of facilities for these purposes. (60th Legis., Ch. 97, Sec. 16.)

(b) The powers granted to districts and public agencies by this chapter are additional to and cumulative of the powers granted by other laws. This chapter is full authority for any district or public agency to enter into contracts authorized by it and for any district to authorize and issue bonds under its provisions without reference to the provisions of any other law or charter. No other law or charter provision which limits, restricts, or imposes additional requirements on matters authorized by this chapter shall apply to any action or proceeding under this chapter unless expressly provided to the contrary in this chapter. (60th Legis., Ch. 97, Sec. 17, sen. 1 (part), 2, 3, as amended.)

§ 25.005. Construction of Chapter

The terms and provisions of this chapter shall be liberally construed to accomplish its purposes. (60th Legis., Ch. 97, Sec. 17, sen. 1 (part), as amended.)

[Sections 25.006 to 25.020 reserved for expansion]

SUBCHAPTER B. REGIONAL WASTE DISPOSAL SYSTEMS**Section 25.021. Disposal System**

A district may acquire, construct, improve, enlarge, extend, repair, operate, and maintain one or more disposal systems. (60th Legis., Ch. 97, Sec. 3, sen. 1 (part), as amended.)

§ 25.022. Purchase and Sale of Facilities

A district may contract with any person to purchase or sell, by installments over such term as considered desirable, any waste collection, transportation, treatment, or disposal facilities or systems. (60th Legis., Ch. 97, Sec. 3, sen. 2, as amended.)

§ 25.023. Lease of Facilities

A district may lease to or from any person, for such term and on such conditions as may be considered desirable, any waste collection, transportation, treatment, or disposal facilities or systems. (60th Legis., Ch. 97, Sec. 3, sen. 3 (part), as amended.)

§ 25.024. Operating Agreements

A district may make operating agreements with any person, for such terms and on such conditions as may be considered desirable, for the operation of any waste collection, transportation, treatment, or disposal facilities or systems of any person by the district. (60th Legis., Ch. 97, Sec. 3, sen. 3 (part), as amended.)

§ 25.025. Waste Disposal Contracts by District

A district may make contracts with any person, including any public agency located inside or outside the boundaries of the district, under which the district will collect, transport, treat, or dispose of waste for the person. (60th Legis., Ch. 97, Sec. 3, sen. 1 (part), as amended.)

§ 25.026. Contracts by River Authority

Each river authority may make contracts authorized by this chapter with any person, including any public agency situated wholly or partly inside its boundaries and any public agency situated wholly or partly inside the river basin and any public agency situated wholly or partly inside the coastal basins adjoining its boundaries, but a river authority may not make contracts to serve a public agency situated wholly inside the boundaries of another river authority or to serve facilities of a person situated wholly within the boundaries of another river authority, except with the consent of the other river authority. (60th Legis., Ch. 97, Sec. 4a, as added.)

§ 25.027. Contract with Public Agency

A public agency may make contracts with a district under which the district will make a disposal system available to the public agency and will furnish waste collection, transportation, treatment, and disposal services to the public agency, group of public agencies, or other persons through the district's disposal system. (60th Legis., Ch. 97, Sec. 5, sen. 1, as amended.)

§ 25.028. Contract Provisions

- (a) The contract may provide for:
 - (1) duration of the contract for a specified period or until issued and unissued bonds and refunding bonds of the district are paid;

(2) assuring equitable treatment of parties who contract with the district for waste collection, transportation, treatment, and disposal services from the same disposal system;

(3) requiring the public agency to regulate the quality and strength of waste to be handled by the disposal system;

(4) sale or lease to or use by a district of all or part of a disposal system owned or to be acquired by the public agency;

(5) the district operating all or part of a disposal system owned or to be acquired by the public agency; and

(6) other terms the district or the governing body of the public agency consider appropriate or necessary. (60th Legis., Ch. 97, Sec. 5, sen. 2 (part), as amended.)

(b) The contract shall specify the method for determining the amounts to be paid by the public agency to the district. (60th Legis., Ch. 97, Sec. 5, sen. 2 (part), as amended.)

(c) A contract made by a city may provide that the district shall have the right to use the streets, alleys, and public ways and places inside the city during the term of the contract. (60th Legis., Ch. 97, Sec. 5, sen. 3, as amended.)

§ 25.029. Continued Use of District Facilities

After amortization of the district's investment in the disposal system, the public agency is entitled to continued performance of the service during the useful life of the disposal system, on payment of reasonable charges reduced to take into consideration the amortization. (60th Legis., Ch. 97, Sec. 5, sen. 2 (part), as amended.)

§ 25.030. Source of Contract Payments

(a) A public agency may pay for the waste collection, transportation, treatment, and disposal services with income from its waterworks system, sanitary sewer system, or both systems, or its combined water and sanitary sewer system, as prescribed by the contract. In the alternative, a joint board defined as a public agency in Section 25.003, Subdivision (3), may pay for these services from any revenue or other funds within its control specified in the contract if the city councils of the cities which created the joint board approve, by ordinance, the contract between the joint board and the district. These payments constitute an operating expense of each system whose revenue is so used. (60th Legis., Ch. 97, Sec. 6, sen. 1, 2, 3, as amended.)

(b) The obligation of contract payments on the income of the public agency's water system is subordinate to the obligation imposed by any bonds that are payable solely from the water system net revenue and that are outstanding at the time the contract is made, unless the ordinance or resolution authorizing the bonds expressly reserved the right to give the contract payments a priority over the bond requirements. (60th Legis., Ch. 97, Sec. 6, sen. 4, as amended.)

(c) If a public agency having taxing power holds an election substantially according to the applicable provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, relating to the issuance of bonds by cities, and it is determined that the public agency is authorized to levy an ad valorem tax to make all or part of the payments under a contract with a district, then the contract is an obligation against the taxing power of the public agency to the extent authorized, and payments under the contract may be payable from and constitute solely an obligation against the taxing powers of the city or may be payable both from taxes and from revenue prescribed in the contract. Otherwise, neither the district nor the holders of the district's bonds are entitled to demand payment of the public agency's obligation out of any tax revenue. (60th Legis., Ch. 97, Sec. 6, sen. 5, 6, as amended, and Sec. 7(a), sen. 1.)

§ 25.031. Rates

(a) When all or part of the payments under a contract are to be made from revenue of the waterworks system, sanitary sewer system, both systems, or a combination of both systems, the public agency shall establish, maintain, and periodically adjust the rates charged for services of the systems, so that the revenue, along with any taxes levied in support of the indebtedness, will be sufficient to pay:

- (1) the expenses of operating and maintaining the systems;
- (2) the obligations to the district under the contract; and
- (3) the obligations of bonds that are secured by revenue of the systems. (60th Legis., Ch. 97, Sec. 8, sen. 1.)

(b) The contract may require the use of consulting engineers and financial experts to advise the public agency on the need for adjusting rates. (60th Legis., Ch. 97, Sec. 8, sen. 2.)

§ 25.032. Service to more than One Public Agency

A contract or group of contracts may provide for the district to render services concurrently to more than one person through constructing and operating a disposal system and may provide that the cost of these services be allocated among the persons as provided in the contract or group of contracts. (60th Legis., Ch. 97, Sec. 9, as amended.)

§ 25.033. Property Acquired by Condemnation or Otherwise

(a) To accomplish the purposes of this chapter, a district may acquire by purchase, lease, gift or in any other manner all or any interest in property inside or outside the boundaries of the district and may own, maintain, use, and operate it. (60th Legis., Ch. 97, Sec. 4, sen. 1, as amended.)

(b) To accomplish the purposes of the chapter, a district may exercise the power of eminent domain to acquire all or any interest in property inside or outside the boundaries of the district. The power shall be exercised according to the laws applicable or available to the district. (60th Legis., Ch. 97, Sec. 4, sen. 2, 3, as amended.)

§ 25.034. Cost of Relocating, Altering, Etc.

If a district makes necessary the relocating, raising, rerouting, changing the grade of, or altering the construction of any highway, railroad, electric transmission line, pipeline, or telephone or telegraph properties or facilities in the exercise of powers granted under this chapter, the district shall pay all of the actual cost of the relocating, raising, rerouting, changing in grade, or altering of construction, and shall pay all of the actual cost of providing comparable replacement of facilities without enhancement, less the net salvage value of the facilities. (60th Legis., Ch. 97, Sec. 15.)

§ 25.035. Elections

No election is required for the exercise of any power under this chapter except for the tax levy as provided by Section 25.030(c) of this code. (60th Legis., Ch. 97, Sec. 7(a), sen. 2.)

[Sections 25.036 to 25.050 reserved for expansion]

SUBCHAPTER C. DISTRICT REVENUE BONDS**Section 25.051. Issuance of Bonds**

In order to acquire, construct, improve, enlarge, extend, or repair disposal systems, the district may issue bonds secured by a pledge of all or part of the revenue from any contract entered into under this chapter and other income of the district. (60th Legis., Ch. 97, Sec. 10, sen. 1, as amended.)

§ 25.052. Form, Denomination, Interest Rate

The governing body of the district shall prescribe the form, denomination, and rate of interest for the bonds. (60th Legis., Ch. 97, Sec. 10, sen. 2 (part), as amended.)

§ 25.053. Refunding Bonds

A district may refund any bonds issued under this chapter on the terms and conditions and at the rate of interest the governing body prescribes. (60th Legis., Ch. 97, Sec. 10, sen. 3, as amended.)

§ 25.054. Sale or Exchange of Bonds

A district may sell bonds issued under this chapter at public or private sale at the price or prices and on the terms determined by the governing body, or it may exchange the bonds for property or any interest in property of any kind considered necessary or convenient to the purposes authorized in this chapter. (60th Legis., Ch. 97, Sec. 10, sen. 4, as amended.)

§ 25.055. Interim Bonds

Pending the issuance of definitive bonds, a district may issue negotiable interim bonds or obligations eligible for exchange or substitution by use of definitive bonds. (60th Legis., Ch. 97, Sec. 10, sen. 5, as amended.)

§ 25.056. Attorney General's Examination

(a) After issuance of the bonds is authorized, the bonds and the record relating to their issuance may be submitted to the attorney general for examination. (60th Legis., Ch. 97, Sec. 12, sen. 1.)

(b) When the bonds recite that they are secured by a pledge of the proceeds from a contract between the district and a public agency, a copy of the contract and the proceedings of the public agency authorizing the contract may also be submitted to the attorney general. (60th Legis., Ch. 97, Sec. 12, sen. 2.)

(c) If the attorney general finds that the bonds are authorized and that the contract is made in accordance with the constitution and laws of this state, he shall approve the bonds and the contract. (60th Legis., Ch. 97, Sec. 12, sen. 3 (part).)

§ 25.057. Registration by Comptroller

After the bonds have been approved by the attorney general, they shall be registered by the state comptroller. (60th Legis., Ch. 97, Sec. 12, sen. 3 (part).)

§ 25.058. Validation Suit

(a) Instead of, or in addition to, obtaining the approval of the attorney general, the district may have the bonds validated by suit in the district court as provided in Chapter 316, Acts of the 56th Legislature, Regular Session, 1959 (Article 717m, Vernon's Texas Civil Statutes). (60th Legis., Ch. 97, Sec. 12, sen. 5.)

(b) The governing body of the district may wait until after termination of the validation suit to fix the interest rate and sale price of the bonds. (60th Legis., Ch. 97, Sec. 12, sen. 6.)

(c) If the proposed bonds recite that they are secured by the proceeds of a contract between the district and a public agency, the petition shall so allege; and the notice of the suit shall mention this allegation and shall specify the public agency's funds or revenues from which the contract payments are to be made. (60th Legis., Ch. 97, Sec. 12, sen. 7.)

§ 25.059. Bonds Incontestable

After the bonds are approved by the attorney general and registered with the comptroller, the bonds and the contract are incontestable. (60th Legis., Ch. 97, Sec. 12, sen. 4.)

§ 25.060. Negotiable Instruments

Bonds issued under this subchapter are negotiable instruments. (60th Legis., Ch. 97, Sec. 10, sen. 2.)

§ 25.061. Investment Securities under Uniform Commercial Code

Bonds issued under this subchapter are investment securities governed by Chapter 8, Uniform Commercial Code. (60th Legis., Ch. 97, Sec. 10, sen. 2 (part), as amended.)

§ 25.062. Bonds as Authorized Investments

Bonds issued under this chapter are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees, and for the sinking funds of cities, towns, villages, school districts, and other political corporations or subdivisions of the state. (60th Legis., Ch. 97, Sec. 14, sen. 1.)

§ 25.063. Security for Deposits

The bonds are eligible to secure deposits of any public funds of the state or any political subdivision of the state, and are lawful and sufficient security for the deposits to the extent of their value when accompanied by unmatured coupons attached to the bonds. (60th Legis., Ch. 97, Sec. 14, sen. 2.)

§ 25.064. Funds Set Aside from Bond Proceeds

The district may set aside out of the proceeds from the sale of bonds:

- (1) interest to accrue on the bonds and administrative expenses to the estimated date when the disposal system will become revenue-producing; and
- (2) reserve funds created by the resolution authorizing the bonds. (60th Legis., Ch. 97, Sec. 11, sen. 2.)

§ 25.065. Investment of Proceeds

Pending their use, proceeds from the sale of bonds may be invested in securities or time deposits as specified in the resolution authorizing the issuance of the bonds or the trust indenture securing the bonds. The earnings on these investments shall be applied as provided in the resolution or trust indenture. (60th Legis., Ch. 97, Sec. 13.)

§ 25.066. Rates and Charges

While any bonds are outstanding, the governing body of the district shall fix, maintain, and collect, for services furnished or made available by the disposal system, rates and charges adequate to:

- (1) pay maintenance and operating costs of and expenses allocable to the disposal system;
- (2) pay the principal of and interest on the bonds; and
- (3) provide and maintain the funds created by the resolution authorizing the bonds. (60th Legis., Ch. 97, Sec. 11, sen. 1.)

[Sections 25.067 to 25.100 reserved for expansion]

SUBCHAPTER D. RIVER AUTHORITY PLANNING**Section 25.101. Authorization of Regional Plans**

Each river authority may prepare regional plans for water quality management, control, and abatement of pollution in any segment of its river basin and adjoining coastal basins which:

(1) are consistent with any applicable water quality standards established under current law within the river basin;

(2) recommend disposal systems which will provide the most effective and economical means of collection, storage, treatment, and purification of waste, and means to encourage rural, municipal, and industrial use of the works and systems; and

(3) recommend maintenance and improvement of water quality standards within the river basin and methods of adequately financing the facilities necessary to implement the plan. (60th Legis., Ch. 97, Sec. 2a, sen. 1, as added.)

§ 25.102. Planning in Related Fields

River authorities may conduct planning in related or affected fields reasonably necessary to give meaning to the water quality management and pollution control planning carried out under this subchapter. (60th Legis., Ch. 97, Sec. 2a, sen. 2, as added.)

§ 25.103. Joint Planning

(a) River authorities may join in the performance of planning functions with any district or public agency and enter into planning agreements for the term and on the conditions considered desirable to provide coordinated planning on a basin-wide scale, including adjacent coastal basins. (60th Legis., Ch. 97, Sec. 2a, sen. 3 (part), as added.)

(b) River authorities may provide for river basin planning committees as entities with powers, responsibilities, functions, and duties conferred by mutual agreement. (60th Legis., Ch. 97, Sec. 2a, sen. 3 (part), as added.)

§ 25.104. Coordination with Other Planning Agencies

A river authority performing planning functions under this subchapter shall coordinate its efforts and cooperate with other public planning agencies having significant planning interests in any segment of the river basin in or for which the planning is being conducted by the river authority. (60th Legis., Ch. 97, Sec. 2a, sen. 4, as added.)

§ 25.105. Financial Assistance

River authorities may make applications and enter into contracts for financial assistance in comprehensive planning which are appropriate under Section 3(c) of the Federal Water Pollution Control Act, under 33 U.S.C., Sec. 1926, et seq., under 40 U.S.C., Sec. 461, et seq., and under any other relevant statutes. (60th Legis., Ch. 97, Sec. 2a, sen. 5, as added.)

§ 25.106. Supervision by Water Quality Board

The Texas Water Quality Board is authorized to exercise continuing supervision on behalf of the state of comprehensive plans prepared under this chapter. (60th Legis., Ch. 97, Sec. 2a, sen. 6, as added.)

TITLE 3. RIVER COMPACTS**CHAPTER 41. RIO GRANDE COMPACT****Section**

- 41.001. Ratification.
- 41.002. Original Copy.
- 41.003. Commissioner.
- 41.004. Term of Office.
- 41.005. Oath.
- 41.006. Compensation; Expenses.
- 41.007. Employees; Administrative Expenses.
- 41.008. Powers and Duties.
- 41.009. Text of Compact.

Section 41.001. Ratification

The Rio Grande Compact, the text of which is set out in Section 41.009 of this code, was ratified by the legislature of this state in Chapter 3, page 531, Special Laws, Acts of the 46th Legislature, 1939, after having been signed at Santa Fe, New Mexico, on March 18, 1938, by M. C. Hinderlider, commissioner for the State of Colorado, Thos. M. McClure, commissioner for the State of New Mexico, and Frank B. Clayton, commissioner for the State of Texas, and approved by S. O. Harper, commissioner representing the United States. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 1 (part).)

§ 41.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 1 (part).)

§ 41.003. Commissioner

The governor, with the advice and consent of the senate, shall appoint a commissioner to represent this state on the commission established by Article XII of the compact. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 1 (part).)

§ 41.004. Term of Office

The commissioner holds office for a term of six (6) years and until his successor is appointed and has qualified. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 2.)

Amended by Acts 1971, 62nd Leg., p. 2504, ch. 823, § 1, eff. June 8, 1971.

Section 2 of Acts 1971, 62nd Leg., p. 2504, ch. 823, was a severability clause.

§ 41.005. Oath

The commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as commissioner. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 3.)

§ 41.006. Compensation; Expenses

The commissioner is entitled to compensation as provided by legislative appropriation. On submission of detailed, sworn accounts, he is entitled to reimbursement for actual expenses incurred while traveling in the discharge of his duties. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 4, 5.)

§ 41.007. Employees; Administrative Expenses

The commissioner, in conjunction with the other members of the commission and as authorized by legislative appropriation, may employ engineering and clerical personnel and may incur necessary office expenses and other expenses incident to the proper performance of his duties and the proper administration of the compact. However, the commissioner shall not incur any financial obligation on behalf of this state until the legislature has authorized and appropriated money for the obligation. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 6, 7.)

§ 41.008. Powers and Duties

The commissioner is responsible for administering the provisions of the compact, and he has all the powers and duties prescribed by the compact. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 1 (part).)

§ 41.009. Text of Compact

The Rio Grande Compact reads as follows:

RIO GRANDE COMPACT

The State of Colorado, the State of New Mexico, and the State of Texas, desiring to remove all causes of present and future controversy among these States and between citizens of one of these States and citizens of another State with respect to the use of the waters of the Rio Grande above Fort Quitman, Texas, and being moved by considerations of interstate comity, and for the purpose of effecting an equitable apportionment of such waters, have resolved to conclude a Compact for the attainment of these purposes, and to that end, through their respective Governors, have named as their respective Commissioners:

For the State of Colorado—M. C. Hinderlider

For the State of New Mexico—Thomas M. McClure

For the State of Texas—Frank B. Clayton

who, after negotiations participated in by S. O. Harper, appointed by the President as the representative of the United States of America, have agreed upon the following Articles, to wit:

ARTICLE I

(a) The State of Colorado, the State of New Mexico, the State of Texas, and the United States of America, are hereinafter designated "Colorado," "New Mexico," "Texas," and the "United States," respectively.

(b) "The Commission" means the agency created by this Compact for the administration thereof.

(c) The term "Rio Grande Basin" means all of the territory drained by the Rio Grande and its tributaries in Colorado, in New Mexico, and in Texas above Fort Quitman, including the Closed Basin in Colorado.

(d) The "Closed Basin" means that part of the Rio Grande Basin in Colorado where the streams drain into the San Luis Lakes and adjacent territory, and do not normally contribute to the flow of the Rio Grande.

(e) The term "tributary" means any stream which naturally contributes to the flow of the Rio Grande.

(f) "Transmountain Diversion" is water imported into the drainage basin of the Rio Grande from any stream system outside of the Rio Grande Basin, exclusive of the Closed Basin.

(g) "Annual Debits" are the amounts by which actual deliveries in any calendar year fall below scheduled deliveries.

(h) "Annual Credits" are the amounts by which actual deliveries in any calendar year exceed scheduled deliveries.

(i) "Accrued Debits" are the amounts by which the sum of all annual debits exceeds the sum of all annual credits over any common period of time.

(j) "Accrued Credits" are the amounts by which the sum of all annual credits exceeds the sum of all annual debits over any common period of time.

(k) "Project Storage" is the combined capacity of Elephant Butte Reservoir and all other reservoirs actually available for the storage of usable water below Elephant Butte and above the first diversion to lands of the Rio Grande Project, but not more than a total of two million, six hundred and thirty-eight thousand, eight hundred and sixty (2,638,860) acre-feet.

(l) "Usable Water" is all water, exclusive of credit water, which is in project storage and which is available for release in accordance with irrigation demands, including deliveries to Mexico.

(m) "Credit Water" is that amount of water in project storage which is equal to the accrued credit of Colorado or New Mexico or both.

(n) "Unfilled Capacity" is the difference between the total physical capacity of project storage and the amount of usable water then in storage.

(o) "Actual Release" is the amount of usable water released in any calendar year from the lowest reservoir comprising project storage.

(p) "Actual Spill" is all water which is actually spilled from Elephant Butte Reservoir, or is released therefrom for flood control, in excess of the current demand on project storage and which does not become usable water by storage in another reservoir; provided, that actual spill of usable water cannot occur until all credit water shall have been spilled.

(q) "Hypothetical Spill" is the time in any year at which usable water would have spilled from project storage if seven hundred and ninety thousand (790,000) acre-feet had been released therefrom at rates proportional to the actual release in every year from the starting date to the end of the year in which hypothetical spill occurs; in computing hypothetical spill the initial condition shall be the amount of usable water in project storage at the beginning of the calendar year following the effective date of this Compact, and thereafter the initial condition shall be the amount of usable water in project storage at the beginning of the calendar year following each actual spill.

ARTICLE II

The Commission shall cause to be maintained and operated a stream gaging station equipped with an automatic water stage recorder at each of the following points, to wit:

(a) On the Rio Grande near Del Norte above the principal points of diversion to the San Luis Valley;

(b) On the Conejos River near Mogote;

(c) On the Los Pinos River near Ortiz;

(d) On the San Antonio River at Ortiz;

(e) On the Conejos River at its mouths near Los Sauces;

(f) On the Rio Grande near Lobatos;

(g) On the Rio Chama below El Vado Reservoir;

(h) On the Rio Grande at Otowi Bridge near San Ildefonso;

(i) On the Rio Grande near San Acacia;

- (j) On the Rio Grande at San Marcial;
- (k) On the Rio Grande below Elephant Butte Reservoir;
- (l) On the Rio Grande below Caballo Reservoir.

Similar gaging stations shall be maintained and operated below any other reservoir constructed after 1929, and at such other points as may be necessary for the securing of records required for the carrying out of the Compact; and automatic water stage recorders shall be maintained and operated on each of the reservoirs mentioned, and on all others constructed after 1929.

Such gaging stations shall be equipped, maintained, and operated by the Commission directly or in cooperation with an appropriate Federal or State agency, and the equipment, method and frequency of measurement at such stations shall be such as to produce reliable records at all times.

ARTICLE III

The obligation of Colorado to deliver water in the Rio Grande at the Colorado-New Mexico State Line, measured at or near Lobatos, in each calendar year, shall be ten thousand (10,000) acre-feet less than the sum of those quantities set forth in the two (2) following tabulations of relationship, which correspond to the quantities at the upper index stations:

Discharge of Conejos River

Quantities in thousands of acre-feet

Conejos Index Supply (1)	Conejos River at Mouths (2)
100	0
150	20
200	45
250	75
300	109
350	147
400	188
450	232
500	278
550	326
600	376
650	426
700	476

Intermediate quantities shall be computed by proportional parts.

(1) Conejos Index Supply is the natural flow of Conejos River at the U.S.G.S. gaging station near Mogote during the calendar year, plus the natural flow of Los Pinos River at the U.S.G.S. gaging station near Ortiz and the natural flow of San Antonio River at the U.S.G.S. gaging station at Ortiz, both during the months of April to October, inclusive.

(2) Conejos River at mouths is the combined discharge of branches of this River at the U.S.G.S. gaging stations near Los Sauces during the calendar year.

Discharge of Rio Grande exclusive of Conejos River

Quantities in thousands of acre-feet

Rio Grande at Del Norte (3)	Rio Grande at Lobatos less Conejos at Mouths (4)
200	60
250	65
300	75
350	86
400	98
450	112
500	127
550	144
600	162
650	182
700	204
750	229
800	257
850	292
900	335
950	380
1,000	430
1,100	540
1,200	640
1,300	740
1,400	840

Intermediate quantities shall be computed by proportional parts.

(3) Rio Grande at Del Norte is the recorded flow of the Rio Grande at the U.S.G.S. gaging station near Del Norte during the calendar year (measured above all principal points of diversion to San Luis Valley) corrected for the operation of reservoirs constructed after 1937.

(4) Rio Grande at Lobatos less Conejos at mouths is the total flow of the Rio Grande at the U.S.G.S. gaging station near Lobatos, less the discharge of Conejos River at its mouths, during the calendar year.

The application of these schedules shall be subject to the provisions hereinafter set forth and appropriate adjustments shall be made for (a) any change in location of gaging station; (b) any new or increased depletion of the runoff above inflow index gaging stations; and (c) any transmountain diversions into the drainage basin of the Rio Grande above Lobatos.

In event any works are constructed after 1937 for the purpose of delivering water into the Rio Grande from the Closed Basin, Colorado shall not be credited with the amount of such water delivered, unless the proportion of sodium ions shall be less than forty-five (45) per cent of the total positive ions in that water when the total dissolved solids in such water exceeds three hundred and fifty (350) parts per million.

ARTICLE IV

The obligation of New Mexico to deliver water in the Rio Grande at San Marcial, during each calendar year, exclusive of the months of July, August, and September, shall be that quantity set forth in the following

tabulation of relationship, which corresponds to the quantity at the upper index station:

Discharge of Rio Grande at Otowi Bridge and at San Marcial exclusive of July, August, and September

Quantities in thousands of acre-feet

Otowi Index Supply (5)	San Marcial Index Supply (6)
100	0
200	65
300	141
400	219
500	300
600	383
700	469
800	557
900	648
1000	742
1100	839
1200	939
1300	1042
1400	1148
1500	1257
1600	1370
1700	1489
1800	1608
1900	1730
2000	1856
2100	1985
2200	2117
2300	2253

Intermediate quantities shall be computed by proportional parts.

(5) The Otowi Index Supply is the recorded flow of the Rio Grande at the U.S.G.S. gaging station at Otowi Bridge near San Ildefonso (formerly station near Buckman) during the calendar year, exclusive of the flow during the months of July, August, and September, corrected for the operation of reservoirs constructed after 1929 in the drainage basin of the Rio Grande between Lobatos and Otowi Bridge.

(6) San Marcial Index Supply is the recorded flow of the Rio Grande at the gaging station at San Marcial during the calendar year exclusive of the flow during the months of July, August, and September.

The application of this schedule shall be subject to the provisions hereinafter set forth and appropriate adjustments shall be made for (a) any change in location of gaging stations; (b) depletion after 1929 in New Mexico at any time of the year of the natural runoff at Otowi Bridge; (c) depletion of the runoff during July, August, and September of tributaries between Otowi Bridge and San Marcial, by works constructed after 1937; and (d) any transmountain diversions into the Rio Grande between Lobatos and San Marcial.

Concurrent records shall be kept of the flow of the Rio Grande at San Marcial, near San Acacia, and of the release from Elephant Butte Reservoir, to the end that the records at these three (3) stations may be correlated.

ARTICLE V

If at any time it should be the unanimous finding and determination of the Commission that because of changed physical conditions, or for any other reason, reliable records are not obtainable, or cannot be obtained,

at any of the stream gaging stations herein referred to, such stations may, with the unanimous approval of the Commission, be abandoned, and with such approval another station, or other stations, shall be established and new measurements shall be substituted which, in the unanimous opinion of the Commission, will result in substantially the same results, so far as the rights and obligations to deliver water are concerned, as would have existed if such substitution of stations and measurements had not been so made.

ARTICLE VI

Commencing with the year following the effective date of this Compact, all credits and debits of Colorado and New Mexico shall be computed for each calendar year; provided, that in a year of actual spill no annual credits nor annual debits shall be computed for that year.

In the case of Colorado, no annual debit nor accrued debit shall exceed one hundred thousand (100,000) acre-feet, except as either or both may be caused by holdover storage water in reservoirs constructed after 1937 in the drainage basin of the Rio Grande above Lobatos. Within the physical limitations of storage capacity in such reservoirs, Colorado shall retain water in storage at all times to the extent of its accrued debit.

In the case of New Mexico, the accrued debit shall not exceed two hundred thousand (200,000) acre-feet at any time, except as such debit may be caused by holdover storage of water in reservoirs constructed after 1929 in the drainage basin of the Rio Grande between Lobatos and San Marcial. Within the physical limitations of storage capacity in such reservoirs, New Mexico shall retain water in storage at all times to the extent of its accrued debit. In computing the magnitude of accrued credits or debits, New Mexico shall not be charged with any greater debit in any one year than the sum of one hundred and fifty thousand (150,000) acre-feet and all gains in the quantity of water in storage in such year.

The Commission by unanimous action may authorize the release from storage of any amount of water which is then being held in storage by reason of accrued debits of Colorado or New Mexico; provided, that such water shall be replaced at the first opportunity thereafter.

In computing the amount of accrued credits and accrued debits of Colorado or New Mexico, any annual credits in excess of one hundred and fifty thousand (150,000) acre-feet shall be taken as equal to that amount.

In any year in which actual spill occurs, the accrued credits of Colorado or New Mexico, or both, at the beginning of the year shall be reduced in proportion to their respective credits by the amount of such actual spill; provided, that the amount of actual spill shall be deemed to be increased by the aggregate gain in the amount of water in storage, prior to the time of spill, in reservoirs above San Marcial constructed after 1929; provided, further, that if the Commissioners for the States having accrued credits authorize the release of part, or all, of such credits in advance of spill, the amount so released shall be deemed to constitute actual spill.

In any year in which there is actual spill of usable water, or at the time of hypothetical spill thereof, all accrued debits of Colorado or New Mexico, or both, at the beginning of the year shall be cancelled.

In any year in which the aggregate of accrued debits of Colorado and New Mexico exceeds the minimum unfilled capacity of project storage, such debits shall be reduced proportionally to an aggregate amount equal to such minimum unfilled capacity.

To the extent that accrued credits are impounded in reservoirs between San Marcial and Courchesne, and to the extent that accrued debits are impounded in reservoirs above San Marcial, such credits and debits shall be reduced annually to compensate for evaporation losses in the propor-

tion that such credits or debits bore to the total amount of water in such reservoirs during the year.

ARTICLE VII

Neither Colorado nor New Mexico shall increase the amount of water in storage in reservoirs constructed after 1929 whenever there is less than four hundred thousand (400,000) acre-feet of usable water in project storage; provided, that if the actual releases of usable water from the beginning of the calendar year following the effective date of this Compact, or from the beginning of the calendar year following actual spill, have aggregated more than an average of seven hundred and ninety thousand (790,000) acre-feet per annum, the time at which such minimum stage is reached shall be adjusted to compensate for the difference between the total actual release and releases at such average rate; provided, further, that Colorado or New Mexico, or both, may relinquish accrued credits at any time, and Texas may accept such relinquished water, and in such event the State or States so relinquishing shall be entitled to store water in the amount of the water so relinquished.

ARTICLE VIII

During the month of January of any year the Commissioner for Texas may demand of Colorado and New Mexico, and the Commissioner for New Mexico may demand of Colorado, the release of water from storage reservoirs constructed after 1929 to the amount of the accrued debits of Colorado and New Mexico, respectively, and such releases shall be made by each at the greatest rate practicable under the conditions then prevailing, and in proportion to the total debit of each, and in amounts, limited by their accrued debits, sufficient to bring the quantity of usable water in project storage to six hundred thousand (600,000) acre-feet by March 1st and to maintain this quantity in storage until April 30th, to the end that a normal release of seven hundred and ninety thousand (790,000) acre-feet may be made from project storage in that year.

ARTICLE IX

Colorado agrees with New Mexico that in event the United States or the State of New Mexico decides to construct the necessary works for diverting the waters of the San Juan River, or any of its tributaries, into the Rio Grande, Colorado hereby consents to the construction of said works and the diversion of waters from the San Juan River, or the tributaries thereof, into the Rio Grande in New Mexico, provided the present and prospective uses of water in Colorado by other diversions from the San Juan River, or its tributaries, are protected.

ARTICLE X

In the event water from another drainage basin shall be imported into the Rio Grande Basin by the United States or Colorado or New Mexico, or any of them jointly, the State having the right to the use of such water shall be given proper credit therefor in the application of the schedules.

ARTICLE XI

New Mexico and Texas agree that upon the effective date of this Compact all controversies between said States relative to the quantity or quality of the water of the Rio Grande are composed and settled; however, nothing herein shall be interpreted to prevent recourse by a signatory State to the Supreme Court of the United States for redress should the character or quality of the water, at the point of delivery, be changed hereafter by one signatory State to the injury of another. Nothing here-

in shall be construed as an admission by any signatory State that the use of water for irrigation causes increase of salinity for which the user is responsible in law.

ARTICLE XII

To administer the provisions of this Compact there shall be constituted a Commission composed of one representative from each State, to be known as the Rio Grande Compact Commission. The State Engineer of Colorado shall be ex-officio the Rio Grande Compact Commissioner for Colorado. The State Engineer of New Mexico shall be ex-officio the Rio Grande Compact Commissioner for New Mexico. The Rio Grande Compact Commissioner for Texas shall be appointed by the Governor of Texas. The President of the United States shall be requested to designate a representative of the United States to sit with such Commission, and such Representative of the United States, if so designated by the President, shall act as Chairman of the Commission without vote.

The salaries and personal expenses of the Rio Grande Compact Commissioners for the three (3) States shall be paid by their respective States, and all other expenses incident to the administration of this Compact, not borne by the United States, shall be borne equally by the three (3) States.

In addition to the powers and duties hereinbefore specifically conferred upon such Commission and the Members thereof, the jurisdiction of such Commission shall extend only to the collection, correlation, and presentation of factual data and the maintenance of records having a bearing upon the administration of this Compact, and, by unanimous action, to the making of recommendations to the respective States upon matters connected with the administration of this Compact. In connection therewith, the Commission may employ such engineering and clerical aid as may be reasonably necessary within the limit of funds provided for that purpose by the respective States. Annual reports compiled for each calendar year shall be made by the Commission and transmitted to the Governors of the signatory States on or before March 1st following the year covered by the report. The Commission may, by unanimous action, adopt rules and regulations consistent with the provisions of this Compact to govern their proceedings.

The findings of the Commission shall not be conclusive in any Court or tribunal which may be called upon to interpret or enforce this Compact.

ARTICLE XIII

At the expiration of every five-year period after the effective date of this Compact, the Commission may, by unanimous consent, review any provisions hereof which are not substantive in character and which do not affect the basic principles upon which the Compact is founded, and shall meet for the consideration of such questions on the request of any member of the Commission; provided, however, that the provisions hereof shall remain in full force and effect until changed and amended within the intent of the Compact by unanimous action of the Commissioners, and until any changes in this Compact are ratified by the Legislatures of the respective States and consented to by the Congress, in the same manner as this Compact is required to be ratified to become effective.

ARTICLE XIV

The schedules herein contained and the quantities of water herein allocated shall never be increased nor diminished by reason of any increase or diminution in the delivery or loss of water to Mexico.

ARTICLE XV

The physical and other conditions characteristic of the Rio Grande and peculiar to the territory drained and served thereby, and to the development thereof, have actuated this Compact and none of the signatory States admits that any provisions herein contained establishes any general principle or precedent applicable to other interstate streams.

ARTICLE XVI

Nothing in this Compact shall be construed as affecting the obligations of the United States of America to Mexico under existing treaties, or to the Indian Tribes, or as impairing the Rights of the Indian Tribes.

ARTICLE XVII

This Compact shall become effective when ratified by the Legislatures of each of the signatory States and consented to by the Congress of the United States. Notice of ratification shall be given by the Governor of each State to the Governors of the other States and to the President of the United States, and the President of the United States is requested to give notice to the Governors of each of the signatory States of the consent of the Congress of the United States.

IN WITNESS WHEREOF, The Commissioners have signed this Compact in quadruplicate original, one of which shall be deposited in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the signatory States.

Done at the City of Sante Fe, in the State of New Mexico, on the 18th day of March, in the year of our Lord, One Thousand Nine Hundred and Thirty-eight.

(Signed) M. C. Hinderlider

(Signed) Thomas M. McClure

(Signed) Frank B. Clayton

Approved:

(Signed) S. O. Harper

CHAPTER 42. PECOS RIVER COMPACT

Section

- 42.001. Ratification.
- 42.002. Original Copy.
- 42.003. Commissioner.
- 42.004. Term of Office.
- 42.005. Oath.
- 42.006. Compensation; Expenses.
- 42.007. Employees; Administrative Expenses.
- 42.008. Powers and Duties.
- 42.009. Cooperation of Water Rights Commission.
- 42.010. Text of Compact.

Section 42.001. Ratification

The Pecos River Compact, the text of which is set out in Section 42.010 of this code, was ratified by the legislature of this state in Chapter 30, Acts of the 51st Legislature, Regular Session, 1949, after having been signed at Santa Fe, New Mexico, on December 3, 1948, by John H. Bliss, commissioner for the State of New Mexico, and Charles H. Miller, com-

missioner for the State of Texas, and approved by Berkeley Johnson, representing the United States. (51st Legis., Ch. 30, Sec. 1 (part).)

§ 42.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state. (51st Legis., Ch. 30, Sec. 1 (part).)

§ 42.003. Commissioner

The governor, with the advice and consent of the senate, shall appoint a commissioner to represent this state on the commission established by Article V of the compact. (51st Legis., Ch. 30, Sec. 2, sen. 1 (part), as amended.)

§ 42.004. Term of Office

The commissioner holds office for a term of two years and until his successor is appointed and has qualified. (51st Legis., Ch. 30, Sec. 2, sen. 2, as amended.)

§ 42.005. Oath

The commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as commissioner. (51st Legis., Ch. 30, Sec. 2, sen. 3, as amended.)

§ 42.006. Compensation; Expenses

The commissioner is entitled to compensation as provided by legislative appropriation. He is entitled to reimbursement for actual expenses incurred while traveling in the discharge of his duties. (51st Legis., Ch. 30, Sec. 2, sen. 4, 5, as amended.)

§ 42.007. Employees; Administrative Expenses

The commissioner may employ engineering, legal, and clerical personnel as necessary to protect the interest of the state and to carry out and enforce the terms of the compact. He may incur necessary office expenses and other expenses incident to the proper performance of his duties and the proper administration of the compact. However, the commissioner shall not incur any financial obligation on behalf of this state until the legislature has authorized and appropriated money for the obligation. (51st Legis., Ch. 30, Sec. 2, sen. 7, 8, 9, as amended.)

§ 42.008. Powers and Duties

(a) The commissioner is responsible for administering the provisions of the compact, and he has all the powers and duties prescribed by the compact. (51st Legis., Ch. 30, Sec. 2, sen. 1 (part), as amended.)

(b) The commissioner may meet and confer with the New Mexico commissioner at any place the commission considers proper. (51st Legis., Ch. 30, Sec. 2, sen. 6, as amended.)

§ 42.009. Cooperation of Water Rights Commission

The Texas Water Rights Commission shall cooperate with the commissioner in the performance of his duties and shall furnish him any available data and information he needs. (51st Legis., Ch. 30, Sec. 4.)

§ 42.010. Text of Compact

The Pecos River Compact reads as follows:

PECOS RIVER COMPACT

Entered Into by the States of

NEW MEXICO

and

TEXAS

Santa Fe, New Mexico
December 3, 1948

PECOS RIVER COMPACT

The State of New Mexico and the State of Texas, acting through their Commissioners, John H. Bliss for the State of New Mexico and Charles H. Miller for the State of Texas, after negotiations participated in by Berkeley Johnson, appointed by the President as the representative of the United States of America, have agreed respecting the uses, apportionment and deliveries of the water of the Pecos River as follows:

ARTICLE I

The major purposes of this Compact are to provide for the equitable division and apportionment of the use of the waters of the Pecos River; to promote interstate comity; to remove causes of present and future controversies; to make secure and protect present development within the states; to facilitate the construction of works for, (a) the salvage of water, (b) the more efficient use of water, and (c) the protection of life and property from floods.

ARTICLE II

As used in this Compact:

(a) The term "Pecos River" means the tributary of the Rio Grande which rises in north-central New Mexico and flows in a southerly direction through New Mexico and Texas and joins the Rio Grande near the town of Langtry, Texas, and includes all tributaries of said Pecos River.

(b) The term "Pecos River Basin" means all of the contributing drainage area of the Pecos River and its tributaries above its mouth near Langtry, Texas.

(c) "New Mexico" and "Texas" mean the State of New Mexico and the State of Texas, respectively; "United States" means the United States of America.

(d) The term "Commission" means the agency created by this Compact for the administration thereof.

(e) The term "deplete by man's activities" means to diminish the stream flow of the Pecos River at any given point as the result of beneficial consumptive uses of water within the Pecos River Basin above such point. For the purposes of this Compact it does not include the diminution of such flow by encroachment of salt cedars or other like growth, or by deterioration of the channel of the stream.

(f) The term "Report of the Engineering Advisory Committee" means that certain report of the Engineering Advisory Committee dated January, 1948, and all appendices thereto; including, basic data, processes, and analyses utilized in preparing that report, all of which were reviewed, approved, and adopted by the Commissioners signing this Compact at a meeting held in Santa Fe, New Mexico, on December 3, 1948, and which are included in the Minutes of that meeting.

(g) The term "1947 condition" means that situation in the Pecos River Basin as described and defined in the Report of the Engineering Advisory Committee. In determining any question of fact hereafter arising as to such situation, reference shall be made to, and decisions shall be based on, such report.

(h) The term "water salvaged" means that quantity of water which may be recovered and made available for beneficial use and which quantity of water under the 1947 condition was non-beneficially consumed by natural processes.

(i) The term "unappropriated flood waters" means water originating in the Pecos River Basin above Red Bluff Dam in Texas, the impoundment of which will not deplete the water usable by the storage and diversion facilities existing in either state under the 1947 condition and which if not impounded will flow past Girvin, Texas.

ARTICLE III

(a) Except as stated in paragraph (f) of this Article, New Mexico shall not deplete by man's activities the flow of the Pecos River at the New Mexico-Texas state line below an amount which will give to Texas a quantity of water equivalent to that available to Texas under the 1947 condition.

(b) Except as to the unappropriated flood waters thereof, the apportionment of which is included in and provided for by paragraph (f) of this Article, the beneficial consumptive use of the waters of the Delaware River is hereby apportioned to Texas, and the quantity of such beneficial consumptive use shall be included in determining waters received under the provisions of paragraph (a) of this Article.

(c) The beneficial consumptive use of water salvaged in New Mexico through the construction and operation of a project or projects by the United States or by joint undertakings of Texas and New Mexico, is hereby apportioned forty-three per cent (43%) to Texas and fifty-seven per cent (57%) to New Mexico.

(d) Except as to water salvaged, apportioned in paragraph (c) of this Article, the beneficial consumptive use of water which shall be non-beneficially consumed, and which is recovered, is hereby apportioned to New Mexico but not to have the effect of diminishing the quantity of water available to Texas under the 1947 condition.

(e) Any water salvaged in Texas is hereby apportioned to Texas.

(f) Beneficial consumptive use of unappropriated flood waters is hereby apportioned fifty per cent (50%) to Texas and fifty per cent (50%) to New Mexico.

ARTICLE IV

(a) New Mexico and Texas shall cooperate to support legislation for the authorization and construction of projects to eliminate non-beneficial consumption of water.

(b) New Mexico and Texas shall cooperate with agencies of the United States to devise and effectuate means of alleviating the salinity conditions of the Pecos River.

(c) New Mexico and Texas each may:

(i) Construct additional reservoir capacity to replace reservoir capacity made unusable by any cause.

(ii) Construct additional reservoir capacity for the utilization of water salvaged and unappropriated flood waters apportioned by this Compact to such state.

(iii) Construct additional reservoir capacity for the purpose of making more efficient use of water apportioned by this Compact to such state.

(d) Neither New Mexico nor Texas will oppose the construction of any facilities permitted by this Compact, and New Mexico and Texas will cooperate to obtain the construction of facilities that will be of joint benefit to the two states.

(e) The Commission may determine the conditions under which Texas may store water in works constructed in and operated by New Mexico.

(f) No reservoir shall be constructed and operated in New Mexico above Avalon Dam for the sole benefit of Texas unless the Commission shall so determine.

(g) New Mexico and Texas each has the right to construct and operate works for the purpose of preventing flood damage.

(h) All facilities shall be operated in such manner as to carry out the terms of this Compact.

ARTICLE V

(a) There is hereby created an interstate administrative agency to be known as the "Pecos River Commission." The Commission shall be composed of one Commissioner representing each of the states of New Mexico and Texas, designated or appointed in accordance with the laws of each such state, and, if designated by the President, one Commissioner representing the United States. The President is hereby requested to designate such a Commissioner. If so designated, the Commissioner representing the United States shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission. All members of the Commission must be present to constitute a quorum.

(b) The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the two states. On or before November 1 of each even numbered year the Commission shall adopt and transmit to the Governors of the two states and to the President a budget covering an estimate of its expenses for the following two years. The payment of the expenses of the Commission and of its employees shall not be subject to the audit and accounting procedures of either of the two states. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified independent public accountant and the report of the audit shall be included in, and become a part of, the annual report of the Commission.

(c) The Commission may appoint a secretary who, while so acting, shall not be an employee of either state. He shall serve for such term, receive such salary, and perform such duties as the Commission may direct. The Commission may employ such engineering, legal, clerical, and other personnel as in its judgment may be necessary for the performance of its functions under this Compact. In the hiring of employees the Commission shall not be bound by the civil service laws of either state.

(d) The Commission, so far as consistent with this Compact, shall have power to:

1. Adopt rules and regulations;
2. Locate, establish, construct, operate, maintain, and abandon water gaging stations, independently or in cooperation with appropriate governmental agencies;
3. Engage in studies of water supplies of the Pecos River and its tributaries, independently or in cooperation with appropriate governmental agencies;

4. Collect, analyze, correlate, preserve and report on data as to the stream flows, storage, diversions, salvage, and use of the waters of the Pecos River and its tributaries, independently or in cooperation with appropriate governmental agencies;
 5. Make findings as to any change in depletion by man's activities in New Mexico, and on the Delaware River in Texas;
 6. Make findings as to the deliveries of water at the New Mexico-Texas state line;
 7. Make findings as to the quantities of water salvaged and the amount thereof delivered at the New Mexico-Texas state line;
 8. Make findings as to quantities of water non-beneficially consumed in New Mexico;
 9. Make findings as to quantities of unappropriated flood waters;
 10. Make findings as to the quantities of reservoir losses from reservoirs constructed in New Mexico which may be used for the benefit of both states, and as to the share thereof charged under Article VI hereof to each of the states;
 11. Acquire and hold such personal and real property as may be necessary for the performance of its duties hereunder and to dispose of the same when no longer required;
 12. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in cooperation with appropriate governmental agencies;
 13. Make and transmit annually to the Governors of the signatory states and to the President of the United States on or before the last day of February of each year, a report covering the activities of the Commission for the preceding year.
- (e) The Commission shall make available to the Governor of each of the signatory states any information within its possession at any time, and shall always provide free access to its records by the Governors of each of the States, or their representatives, or authorized representatives of the United States.
- (f) Findings of fact made by the Commission shall not be conclusive in any court, or before any agency or tribunal, but shall constitute prima facie evidence of the facts found.
- (g) The organization meeting of the Commission shall be held within four months from the effective date of this Compact.

ARTICLE VI

The following principles shall govern in regard to the apportionment made by Article III of this Compact:

- (a) The Report of the Engineering Advisory Committee, supplemented by additional data hereafter accumulated, shall be used by the Commission in making administrative determinations.
- (b) Unless otherwise determined by the Commission, depletions by man's activities, state-line flows, quantities of water salvaged, and quantities of unappropriated flood waters shall be determined on the basis of three-year periods reckoned in continuing progressive series beginning with the first day of January next succeeding the ratification of this Compact.

(c) Unless and until a more feasible method is devised and adopted by the Commission the inflow-outflow method, as described in the Report of the Engineering Advisory Committee, shall be used to:

(i) Determine the effect on the state-line flow of any change in depletions by man's activities or otherwise, of the waters of the Pecos River in New Mexico.

(ii) Measure at or near the Avalon Dam in New Mexico the quantities of water salvaged.

(iii) Measure at or near the state line any water released from storage for the benefit of Texas as provided for in subparagraph (d) of this Article.

(iv) Measure the quantities of unappropriated flood waters apportioned to Texas which have not been stored and regulated by reservoirs in New Mexico.

(v) Measure any other quantities of water required to be measured under the terms of this Compact which are susceptible of being measured by the inflow-outflow method.

(d) If unappropriated flood waters apportioned to Texas are stored in facilities constructed in New Mexico, the following principles shall apply:

(i) In case of spill from a reservoir constructed in and operated by New Mexico, the water stored to the credit of Texas will be considered as the first water to spill.

(ii) In case of spill from a reservoir jointly constructed and operated, the water stored to the credit of either state shall not be affected.

(iii) Reservoir losses shall be charged to each state in proportion to the quantity of water belonging to that state in storage at the time the losses occur.

(iv) The water impounded to the credit of Texas shall be released by New Mexico on the demand of Texas.

(e) Water salvaged shall be measured at or near the Avalon Dam in New Mexico and to the quantity thereof shall be added a quantity equal to the quantity of salvaged water depleted by man's activities above Avalon Dam. The quantity of water salvaged that is apportioned to Texas shall be delivered by New Mexico at the New Mexico-Texas state line. The quantity of unappropriated flood waters impounded under paragraph (d) of this Article, when released shall be delivered by New Mexico at the New Mexico-Texas state line in the quantity released less channel losses. The unappropriated flood waters apportioned to Texas by this Compact that are not impounded in reservoirs in New Mexico shall be measured and delivered at the New Mexico-Texas state line.

(f) Beneficial use shall be the basis, the measure, and the limit of the right to use water.

ARTICLE VII

In the event of importation of water by man's activities to the Pecos River Basin from any other river basin the state making the importation shall have the exclusive use of such imported water.

ARTICLE VIII

The provisions of this Compact shall not apply to, or interfere with, the right or power of either signatory state to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact

ARTICLE IX

In maintaining the flows at the New Mexico-Texas state line required by this Compact, New Mexico shall in all instances apply the principle of prior appropriation within New Mexico.

ARTICLE X

The failure of either state to use the water, or any part thereof, the use of which is apportioned to it under the terms of this Compact, shall not constitute a relinquishment of the right to such use, nor shall it constitute a forfeiture or abandonment of the right to such use.

ARTICLE XI

Nothing in this Compact shall be construed as:

(a) Affecting the obligations of the United States under the Treaty with the United Mexican States (Treaty Series 994);

(b) Affecting any rights or powers of the United States, its agencies or instrumentalities, in or to the waters of the Pecos River, or its capacity to acquire rights in and to the use of said waters;

(c) Subjecting any property of the United States, its agencies or instrumentalities, to taxation by any state or subdivision thereof, or creating any obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatever kind, to make any payment to any state or political subdivision thereof, state agency, municipality or entity whatsoever, in reimbursement for the loss of taxes;

(d) Subjecting any property of the United States, its agencies or instrumentalities, to the laws of any state to an extent other than the extent to which such laws would apply without regard to this Compact.

ARTICLE XII

The consumptive use of water by the United States or any of its agencies, instrumentalities or wards shall be charged as a use by the state in which the use is made; provided, that such consumptive use incident to the diversion, impounding, or conveyance of water in one state for use in the other state shall be charged to such latter state.

ARTICLE XIII

This Compact shall not be construed as establishing any general principle or precedent applicable to other interstate streams.

ARTICLE XIV

This Compact may be terminated at any time by appropriate action of the legislatures of both of the signatory states. In the event of such termination, all rights established under it shall continue unimpaired.

ARTICLE XV

This Compact shall become binding and obligatory when it shall have been ratified by the legislature of each State and approved by the Congress of the United States. Notice of ratification by the legislature of each State shall be given by the Governor of that State to the Governor of the other State and to the President of the United States, and the President is hereby requested to give notice to the Governor of each State of approval by the Congress of the United States.

In Witness Whereof, the Commissioners have executed three counterparts hereof each of which shall be and constitute an original, one of which shall be deposited in the archives of the Department of State of the United States, and one of which shall be forwarded to the Governor of each State.

Done at the City of Santa Fe, State of New Mexico, this 3rd day of December, 1948.

JOHN H. BLISS

Commissioner for the State of
New Mexico

CHARLES H. MILLER

Commissioner for the State of
Texas

APPROVED

BERKELEY JOHNSON

Representative of the United States of America

CHAPTER 43. CANADIAN RIVER COMPACT

Section

- 43.001. Ratification.
- 43.002. Original Copy.
- 43.003. Commissioner.
- 43.004. Expenses.
- 43.005. Powers and Duties.
- 43.006. Text of Compact.

Section 43.001. Ratification

The Canadian River Compact, the text of which is set out in Section 43.006 of this code, was ratified by the legislature of this state in Chapter 153, Acts of the 52nd Legislature, Regular Session, 1951, after having been signed at Santa Fe, New Mexico, on December 6, 1950, by John H. Bliss, commissioner for the State of New Mexico, E. V. Spence, commissioner for the State of Texas, and Clarence Burch, commissioner for the State of Oklahoma, and approved by Berkeley Johnson, representing the United States. (52nd Legis., Ch. 153, Sec. 1 (part).)

§ 43.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state. (52nd Legis., Ch. 153, Sec. 1 (part).)

§ 43.003. Commissioner

The governor shall appoint a commissioner to represent this state on the commission established by Article IX of the compact. (52nd Legis., Ch. 153, Sec. 2, sen. 1, as amended.)

§ 43.004. Expenses

The commissioner is entitled to reimbursement for actual expenses incurred in the discharge of his duties. (52nd Legis., Ch. 153, Sec. 2, sen. 3 (part), as amended.)

§ 43.005. Powers and Duties

(a) The commissioner is responsible for administering the provisions of the compact, and he has all the powers and duties prescribed by the compact.

(b) The commissioner may meet and confer with the other commissioners at any place the commission considers proper. (52nd Legis., Ch. 153, Sec. 2, sen. 2, 3 (part), as amended.)

§ 43.006. Text of Compact

The Canadian River Compact reads as follows:

CANADIAN RIVER COMPACT

The State of New Mexico, the State of Texas, and the State of Oklahoma, acting through their Commissioners, John H. Bliss for the State of New Mexico, E. V. Spence for the State of Texas, and Clarence Burch for the State of Oklahoma, after negotiations participated in by Berkeley Johnson, appointed by the President as the representative of the United States of America, have agreed respecting Canadian River as follows:

ARTICLE I

The major purposes of this Compact are to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the States; and to provide for the construction of additional works for the conservation of the waters of Canadian River.

ARTICLE II

As used in this Compact:

(a) The term "Canadian River" means the tributary of Arkansas River which rises in northeastern New Mexico and flows in an easterly direction through New Mexico, Texas and Oklahoma and includes North Canadian River and all other tributaries of said Canadian River.

(b) The term "North Canadian River" means that major tributary of Canadian River officially known as North Canadian River from its source to its junction with Canadian River and includes all tributaries of North Canadian River.

(c) The term "Commission" means the agency created by this Compact for the administration thereof.

(d) The term "conservation storage" means that portion of the capacity of reservoirs available for the storage of water for subsequent release for domestic, municipal, irrigation and industrial uses, or any of them, and it excludes any portion of the capacity of reservoirs allocated solely to flood control, power production and sediment control, or any of them.

ARTICLE III

All rights to any of the waters of Canadian River which have been perfected by beneficial use are hereby recognized and affirmed.

ARTICLE IV

(a) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian River above Conchas Dam.

(b) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian River in New Mexico below Conchas Dam, provided that the amount of conservation storage in New Mexico available for impounding these waters which originate in the drainage basin of Canadian River below Conchas Dam shall be limited to an aggregate of two hundred thousand (200,000) acre-feet.

(c) The right of New Mexico to provide conservation storage in the drainage basin of North Canadian River shall be limited to the storage of such water as at the time may be unappropriated under the laws of New Mexico and of Oklahoma.

ARTICLE V

Texas shall have free and unrestricted use of all waters of Canadian River in Texas, subject to the limitations upon storage of water set forth below:

(a) The right of Texas to impound any of the waters of North Canadian River shall be limited to storage on tributaries of said River in Texas for municipal uses, for household and domestic uses, livestock watering, and the irrigation of lands which are cultivated solely for the purpose of providing food and feed for the householders and domestic livestock actually living or kept on the property.

(b) Until more than three hundred thousand (300,000) acre-feet of conservation storage shall be provided in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs in the drainage basin of Canadian River east of the 97th meridian, the right of Texas to retain water in conservation storage, exclusive of waters of North Canadian River, shall be limited to five hundred thousand (500,000) acre-feet; thereafter the right of Texas to impound and retain such waters in storage shall be limited to an aggregate quantity equal to two hundred thousand (200,000) acre-feet plus whatever amount of water shall be at the same time in conservation storage in reservoirs in the drainage basin of Canadian River in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs east of the 97th meridian; and for the purpose of determining the amount of water in conservation storage, the maximum quantity of water in storage following each flood or series of floods shall be used; provided, that the right of Texas to retain and use any quantity of water previously impounded shall not be reduced by any subsequent application of the provisions of this paragraph (b).

(c) Should Texas for any reason impound any amount of water greater than the aggregate quantity specified in paragraph (b) of this Article, such excess shall be retained in storage until under the provisions of said paragraph Texas shall become entitled to its use; provided, that, in event of spill from conservation storage, any such excess shall be reduced by the amount of such spill from the most easterly reservoir on Canadian River in Texas; provided further, that all such excess quantities in storage shall be reduced monthly to compensate for reservoir losses in proportion to the total amount of water in the reservoir or reservoirs in which such excess water is being held; and provided further that on demand by the Commissioner for Oklahoma the remainder of any such excess quantity of water in storage shall be released into the channel of Canadian River at the greatest rate practicable.

ARTICLE VI

Oklahoma shall have free and unrestricted use of all waters of Canadian River in Oklahoma.

ARTICLE VII

The Commission may permit New Mexico to impound more water than the amount set forth in Article IV and may permit Texas to impound more water than the amount set forth in Article V; provided, that no State shall thereby be deprived of water needed for beneficial use; provided further that each such permission shall be for a limited period not

exceeding twelve (12) months; and provided further that no State or user of water within any State shall thereby acquire any right to the continued use of any such quantity of water so permitted to be impounded.

ARTICLE VIII

Each State shall furnish to the Commission at intervals designated by the Commission accurate records of the quantities of water stored in reservoirs pertinent to the administration of this Compact.

ARTICLE IX

(a) There is hereby created an interstate administrative agency to be known as the "Canadian River Commission." The Commission shall be composed of three (3) Commissioners, one (1) from each of the signatory States, designated or appointed in accordance with the laws of each such State, and if designated by the President an additional Commissioner representing the United States. The President is hereby requested to designate such a Commissioner. If so designated, the Commissioner representing the United States shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission. All members of the Commission must be present to constitute a quorum. A unanimous vote of the Commissioners for the three (3) signatory States shall be necessary to all actions taken by the Commission.

(b) The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the three (3) States and be paid by the Commission out of a revolving fund hereby created to be known as the "Canadian River Revolving Fund." Such fund shall be initiated and maintained by equal payments of each State into the fund in such amounts as will be necessary for administration of this Compact. Disbursements shall be made from said fund in such manner as may be authorized by the Commission. Said fund shall not be subject to the audit and accounting procedures of the States. However, all receipts and disbursements of funds handled by the Commission shall be audited by a qualified independent public accountant at regular intervals and the report of the audit shall be included in and become a part of the annual report of the Commission.

(c) The Commission may:

(1) Employ such engineering, legal, clerical, and other personnel as in its judgment may be necessary for the performance of its functions under this Compact;

(2) Enter into contracts with appropriate Federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records, and for the preparation of reports;

(3) Perform all functions required of it by this Compact and do all things necessary, proper, or convenient in the performance of its duties hereunder, independently or in cooperation with appropriate governmental agencies.

(d) The Commission shall:

(1) Cause to be established, maintained and operated such stream and other gaging stations and evaporation stations as may from time to time be necessary for proper administration of the Compact, independently or in cooperation with appropriate governmental agencies;

(2) Make and transmit to the Governors of the signatory States on or before the last day of March of each year, a report covering the activities of the Commission for the preceding year;

(3) Make available to the Governor of any signatory state, on his request, any information within its possession at any time, and shall al-

ways provide access to its records by the Governors of the States, or their representatives, or by authorized representatives of the United States.

ARTICLE X

Nothing in this Compact shall be construed as:

(a) Affecting the obligations of the United States to the Indian Tribes;

(b) Subjecting any property of the United States, its agencies or instrumentalities, to taxation by any State or subdivision thereof, or creating any obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatever kind, to make any payment to any State or political subdivision thereof, state agency, municipality or entity whatsoever, in reimbursement for the loss of taxes;

(c) Subjecting any property of the United States, its agencies or instrumentalities, to the laws of any State to an extent other than the extent to which such laws would apply without regard to this Compact;

(d) Applying to, or interfering with, the right or power of any signatory State to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact;

(e) Establishing any general principle or precedent applicable to other interstate streams.

ARTICLE XI

This Compact shall become binding and obligatory when it shall have been ratified by the Legislature of each State and approved by the Congress of the United States. Notice of ratification by the Legislature of each State shall be given by the Governor of that State to the Governors of the other States and to the President of the United States. The President is hereby requested to give notice to the Governor of each State of approval by the Congress of the United States.

IN WITNESS WHEREOF, The Commissioners have executed four (4) counterparts hereof, each of which shall be and constitute an original, one (1) of which shall be deposited in the archives of the Department of State of the United States, and (1) of which shall be forwarded to the Governor of each State.

DONE at the City of Santa Fe, State of New Mexico, this 6th day of December, 1950.

/s/ John H. Bliss

John H. Bliss
Commissioner for the State of
New Mexico

/s/ E. V. Spence

E. V. Spence
Commissioner for the State of
Texas

/s/ Clarence Burch

Clarence Burch
Commissioner for the State of
Oklahoma

APPROVED:

/s/ Berkeley Johnson

Berkeley Johnson
Representative of the United
States of America

CHAPTER 44. SABINE RIVER COMPACT**Section**

- 44.001. Ratification.
- 44.002. Original Copy.
- 44.003. Members.
- 44.004. Terms of Office.
- 44.005. Oath.
- 44.006. Compensation; Expenses.
- 44.007. Employees; Administrative Expenses.
- 44.008. Powers and Duties.
- 44.009. Cooperation of Water Rights Commission.
- 44.010. Text of Compact.

Section 44.001. Ratification

The Sabine River Compact, the text of which is set out in Section 44.010 of this code, was ratified by the legislature of this state in Chapter 63, Acts of the 53rd Legislature, Regular Session, 1953, after having been signed at Logansport, Louisiana, on January 26, 1953, by Roy T. Sessums, representative for the State of Louisiana, and Henry L. Woodworth and John W. Simmons, representatives for the State of Texas, and approved by Louis W. Prentiss, representative of the United States. (53rd Legis., Ch. 63, Sec. 1 (part).)

§ 44.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state. (53rd Legis., Ch. 63, Sec. 1 (part).)

§ 44.003. Members

The governor, with the advice and consent of the senate, shall appoint two members to represent this state on the administration established by Article VII of the compact. (53rd Legis., Ch. 63, Sec. 2, sen. 1 (part), as amended.)

§ 44.004. Terms of Office

The members hold office for staggered terms of six years, with the term of one member expiring every three years. Each member holds office until his successor is appointed and has qualified. (53rd Legis., Ch. 63, Sec. 2, sen. 2, as amended.)

§ 44.005. Oath

Each member shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as a member of the compact administration. (53rd Legis., Ch. 63, Sec. 2, sen. 3, as amended.)

§ 44.006. Compensation; Expenses

Each member is entitled to compensation in the amount of \$25 per day of service necessary to discharge his duties under the compact. Each member is entitled to reimbursement for actual expenses incurred in the discharge of these duties. (53rd Legis., Ch. 63, Sec. 2, sen. 4, as amended.)

§ 44.007. Employees; Administrative Expenses

The members may make investigations and appoint engineering, legal, and clerical employees as necessary to protect the interest of this state and to carry out and enforce the compact. They may incur necessary office expenses and other expenses incident to the proper performance of

their duties and the proper administration of the compact. (53rd Legis., Ch. 63, Sec. 2, sen. 6, 7, as amended.)

§ 44.008. Powers and Duties

(a) The members are responsible for administering the provisions of the compact, and have all the powers and duties prescribed by the compact.

(b) The members may meet and confer with the Louisiana members at any place the administration considers proper. (53rd Legis., Ch. 63, Sec. 2, sen. 1 (part), 5, as amended.)

§ 44.009. Cooperation of Water Rights Commission

The Texas Water Rights Commission shall cooperate with the members in the performance of their duties and shall furnish them any available data and information they need. (53rd Legis., Ch. 63, Sec. 3.)

§ 44.010. Text of Compact

The Sabine River Compact reads as follows:

SABINE RIVER COMPACT

Entered Into by the States of

LOUISIANA

and

TEXAS

Logansport, Louisiana
January 26, 1953

SABINE RIVER COMPACT

The State of Texas and the State of Louisiana, parties signatory to this Compact (hereinafter referred to as "Texas" and "Louisiana", respectively, or individually as a "State", or collectively as the "States"), having resolved to conclude a compact with respect to the waters of the Sabine River, and having appointed representatives as follows:

For Texas: Henry L. Woodworth, Interstate Compact Commissioner for Texas; and John W. Simmons, President of the Sabine River Authority of Texas;

For Louisiana: Roy T. Sessums, Director of the Department of Public Works of the State of Louisiana;

and consent to negotiate and enter into the said Compact having been granted by Act of the Congress of the United States approved November 1, 1951 (Public Law No. 252; 82nd Congress, First Session), and pursuant thereto the President having designated Louis W. Prentiss as the representative of the United States, the said representatives for Texas and Louisiana, after negotiations participated in by the representative of the United States, have for such Compact agreed upon Articles as hereinafter set forth. The major purposes of this Compact are to provide for an equitable apportionment between the States of Louisiana and Texas of the waters of the Sabine River and its tributaries, thereby removing the causes of present and future controversy between the States over the conservation and utilization of said waters; to encourage the development, conservation and utilization of the water resources of the Sabine River and its tributaries; and to establish a basis for cooperative planning and action by the States for the construction, operation and maintenance of projects for water conservation and utilization purposes on that

reach of the Sabine River touching both States, and for apportionment of the benefits therefrom.

It is recognized that pollution abatement and salt water intrusion are problems which are of concern to the States of Louisiana and Texas, but inasmuch as this Compact is limited to the equitable apportionment of the waters of the Sabine River and its tributaries between the States of Louisiana and Texas, this Compact does not undertake the solution of those problems.

ARTICLE I

As used in this Compact:

(a) The word "Stateline" means the point on the Sabine River where its waters in downstream flow first touch the States of both Louisiana and Texas.

(b) The term "waters of the Sabine River" means the waters either originating in the natural drainage basin of the Sabine River, or appearing as streamflow in said River and its tributaries, from its headwater source down to the mouth of the River where it enters into Sabine Lake.

(c) The term "Stateline flow" means the flow of waters of the Sabine River as determined by the Logansport gauge located on the U. S. Highway 84, approximately four (4) river miles downstream from the Stateline. This flow, or the flow as determined by such substitute gauging station as may be established by the Administration, as hereinafter defined, pursuant to the provisions of Article VII of this Compact, shall be deemed the actual Stateline flow.

(d) The term "Stateline reach" means that portion of the Sabine River lying between the Stateline and Sabine Lake.

(e) The term "the Administration" means the Sabine River Compact Administration established under Article VII.

(f) The term "Domestic use" means the use of water by an individual, or by a family unit or household for drinking, cooking, laundering, sanitation and other personal comforts and necessities; and for the irrigation of an area not to exceed one acre, obtained directly from the Sabine River or its tributaries by an individual or family unit, not supplied by a water company, water district or municipality.

(g) The term "stock water use" means the use of water for any and all livestock and poultry.

(h) The term "consumptive use" means use of water resulting in its permanent removal from the stream.

(i) The terms "domestic" and "stock water" reservoir mean any reservoir for either or both of such uses having a storage capacity of fifty (50) acre feet or less.

(j) "Stored water" means water stored in reservoirs (exclusive of domestic or stock water reservoirs) or water withdrawn or released from reservoirs for specific uses and the identifiable return flow from such uses.

(k) The term "free water" means all waters other than "stored waters" in the Stateline reach including, but not limited to, that appearing as natural stream flow and not withdrawn or released from a reservoir for specific uses. Waters released from reservoirs for the purpose of maintaining stream flows as provided in Article V, shall be "free water". All reservoir spills or releases of stored waters made in anticipation of spills, shall be free water.

(l) Where the name of the State or the term "State" is used in this Compact, it shall be construed to include any person or entity of any na-

ture whatsoever of the States of Louisiana or Texas using, claiming, or in any manner asserting any right to the use of the waters of the Sabine River under the authority of that State.

(m) Wherever any State or Federal official or agency is referred to in this Compact, such reference shall apply equally to the comparable official or agency succeeding to their duties and functions.

ARTICLE II

Subject to the provisions of Article X, nothing in this Compact shall be construed as applying to, or interfering with, the right or power of either signatory State to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligation under this Compact.

ARTICLE III

Subject to the provisions of Article X, all rights to any of the waters of the Sabine River which have been obtained in accordance with the laws of the States are hereby recognized and affirmed; provided, however, that withdrawals, from time to time, for the satisfaction of such rights, shall be subject to the availability of supply in accordance with the apportionment of water provided under the terms of this Compact.

ARTICLE IV

Texas shall have free and unrestricted use of all waters of the Sabine River and its tributaries above the Stateline subject, however, to the provisions of Articles V and X.

ARTICLE V

Texas and Louisiana hereby agree upon the following apportionment of the waters of the Sabine River:

(a) All free water in the Stateline reach shall be divided equally between the two States, this division to be made without reference to the origin.

(b) The necessity of maintaining a minimum flow at the Stateline for the benefit of water users below the Stateline in both States is recognized, and to this end it is hereby agreed that:

(1) Reservoirs and permits above the Stateline existing as of January 1, 1953 shall not be liable for maintenance of the flow at the Stateline.

(2) After January 1, 1953, neither State shall permit or authorize any additional uses which would have the effect of reducing the flow at the Stateline to less than 36 cubic feet per second.

(3) Reservoirs on which construction is commenced after January 1, 1953, above the Stateline shall be liable for their share of water necessary to provide a minimum flow at the Stateline of 36 cubic feet per second; provided, that no reservoir shall be liable for a greater percentage of this minimum flow than the percentage of the drainage area above the Stateline contributing to that reservoir, exclusive of the watershed of any reservoir on which construction was started prior to January 1, 1953. Water released from Texas' reservoirs to establish the minimum flow of 36 cubic feet per second, shall be classed as free water at the Stateline and divided equally between the two States.

(c) The right of each State to construct impoundment reservoirs and other works of improvement on the Sabine River or its tributaries located wholly within its boundaries is hereby recognized.

(d) In the event that either State constructs reservoir storage on the tributaries below Stateline after January 1, 1953, there shall be deducted

from that State's share of the flow in the Sabine River all reductions in flow resulting from the operation of the tributary storage and conversely such State shall be entitled to the increased flow resulting from the regulation provided by such storage.

(e) Each State shall have the right to use the main channel of the Sabine River to convey water stored on the Sabine River or its tributaries located wholly within its boundaries, downstream to a desired point of removal without loss of ownership of such stored waters. In the event that such water is released by a State through the natural channel of a tributary and the channel of the Sabine River to a downstream point of removal, a reduction shall be made in the amount of water which can be withdrawn at the point of removal equal to the transmission losses.

(f) Each State shall have the right to withdraw its share of the water from the channel of the Sabine River in the Stateline reach in accordance with Article VII. Neither State shall withdraw at any point more than its share of the flow at that point except, that pursuant to findings and determination of the Administration as provided under Article VII of this Compact, either State may withdraw more or less of its share of the water at any point providing that its aggregate withdrawal shall not exceed its total share. Withdrawals made pursuant to this paragraph shall not prejudice or impair the existing rights of users of Sabine River waters.

(g) Waters stored in reservoirs constructed by the States in the Stateline reach shall be shared by each State in proportion to its contribution to the cost of storage. Neither State shall have the right to construct a dam on the Stateline reach without the consent of the other State.

(h) Each State may vary the rate and manner of withdrawal of its share of such jointly stored waters on the Stateline reach, subject to meeting the obligations for amortization of the cost of the joint storage. In any event, neither State shall withdraw more than its pro-rata share in any one year (a year meaning a water year, October 1st to September 30th) except by authority of the Administration. All jointly stored water remaining at the end of a water year shall be reapportioned between the States in the same proportion as their contribution to the cost of the storage.

(i) Except for jointly stored water, as provided in (h) above, each State must use its apportionment of the natural stream flows as they occur and there shall be no allowance of accumulation of credits or debits for or against either State. The failure of either State to use the stream flow or any part thereof, the use of which is apportioned to it under the terms of this Compact, shall not constitute a relinquishment of the right to such use in the future; conversely, the failure of either State to use the water at the time it is available does not give it the right to the flow in excess of its share of the flow at any other time.

(j) From the apportionment of waters of the Sabine River as defined in this Article, there shall be excluded from such apportionment all waters consumed in either State for domestic and stock water uses. Domestic and stock water reservoirs shall be so excluded.

(k) Each State may use its share of the water apportioned to it in any manner that may be deemed beneficial by that State.

ARTICLE VI

(a) The States through their respective appropriate agencies or subdivisions may construct jointly, or cooperate with any agency or instrumentality of the United States in the construction of works on the Stateline reach for the development, conservation and utilization for all beneficial purposes of the waters of the Sabine River.

(b) All monetary revenues growing out of any joint State ownership, title and interest in works constructed under Section (a) above, and accruing to the States in respect thereof, shall be divided between the States in proportion to their respective contributions to the cost of construction; provided however, that each State shall retain undivided all its revenues from recreational facilities within its boundaries incidental to the use of the waters of the Sabine River, and from its severally State-owned recreational facilities constructed appurtenant thereto.

(c) All operation and maintenance costs chargeable against any State ownership, title and interest in works constructed under Section (a) above, shall be assessed in proportion to the contribution of each State to the original cost of construction.

ARTICLE VII

(a) There is hereby created an interstate administrative agency to be designated as the "Sabine River Compact Administration" herein referred to as "the Administration".

(b) The Administration shall consist of two members from each State and of one member as representative of the United States, chosen by the President of the United States, who is hereby requested to appoint such a representative. The United States member shall be ex-officio chairman of the Administration without vote and shall not be a domiciliary of or reside in either State. The appointed members for Texas and Louisiana shall be designated within thirty days after the effective date of this Compact.

(c) The Texas members shall be appointed by the Governor for a term of six years; provided, however, that one of the original Texas members shall be appointed for a term to establish a half-term interval between the expiration dates of the terms of such members, and thereafter one such member shall be appointed each three (3) years for the regular term. One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four (4) years; provided that the first member so appointed shall serve until June 30, 1958. Each state member shall hold office subject to the laws of his state or until his successor has been duly appointed and qualified.

(d) Interim vacancy, for whatever cause, in the office of any member of the Administration shall be filled for the unexpired term in the same manner as hereinabove provided for regular appointment.

(e) Within sixty days after the effective date of this Compact, the Administration shall meet and organize. A quorum for any meeting shall consist of three voting members of the Administration. Each State member shall have one vote, and every decision, authorization, determination, order or other action shall require the concurring votes of at least three members.

(f) The Administration shall have power to:

(1) Adopt, amend and revoke by-laws, rules and regulations, and prescribe procedures for administration of and consistent with the provisions of this Compact;

(2) Fix and determine from time to time the location of the Administration's principal office;

(3) Employ such engineering, legal, clerical and other personnel, without regard to the civil service laws of either State, as the Administration may determine necessary or proper to supplement State-furnished assistance as hereinafter provided, for the performance of its functions under this Compact; provided, that such employees shall be paid by and be re-

sponsible to the Administration and shall not be considered to be employees of either State;

(4) Procure such equipment, supplies and technical assistance as the Administration may determine to be necessary or proper to supplement State-furnished assistance as hereinafter provided, for the performance of its functions under this Compact;

(5) Adopt a seal which shall be judicially recognized.

(g) In cooperation with the chief official administering water rights in each State and with appropriate Federal agencies, the Administration shall have and perform powers and duties as follows:

(1) To collect, analyze, correlate, compile and report on data as to water supplies, stream flows, storage, diversions, salvage and use of the waters of the Sabine River and its tributaries, and as to all factual data necessary or proper for the administration of this Compact;

(2) To designate as official stations for the administration of this Compact such existing water gauging stations (and to operate, maintain, repair and abandon the same), and to locate, establish, construct, operate, maintain, repair and abandon additional such stations, as the Administration may from time to time find and determine necessary or appropriate;

(3) To make findings as to the deliveries of water at Stateline as hereinabove provided, from the stream-flow records of the Stateline gauge which shall be operated and maintained by the Administration or in cooperation with the appropriate Federal agency, for determination of the actual Stateline flow unless the Administration shall find and determine that, because of changed physical conditions or for any other reason, reliable records are not obtainable thereat; in which case such existing Stateline station may with the approval of the Administration be abandoned and, with such approval, a substitute Stateline station established in lieu thereof;

(4) To make findings as to the quantities of reservoir storage (including joint storage) and releases therefrom, diversions, transmission losses and as to incident stream-flow changes, and as to the share of such quantities chargeable against or allocable to the respective States;

(5) To record and approve all points of diversion at which water is to be removed from the Sabine River or its tributaries below the Stateline; provided that, in any case, the State agency charged with the administration of the water laws for the State in which such point of diversion is located shall first have approved such point for removal or diversion; provided further, that any such point of removal or diversion once jointly approved by the appropriate State agency and the Administration, shall not thereafter be changed without the joint amendatory approval of such State agency and the Administration;

(6) To require water users at their expense to install and maintain measuring devices of approved type in any ditch, pumping station or other water diversion works on the Sabine River or its tributaries below the Stateline, as the Administration may determine necessary or proper for the purposes of this Compact; provided that the chief official of each State charged with the administration of water rights therein shall supervise the execution and enforcement of the Administration's requirements for such measuring devices;

(7) To investigate any violation of this Compact and to report findings and recommendations thereon to the chief official of the affected State charged with the administration of water rights, or to the Governor of such State as the Administration may deem proper;

(8) To acquire, hold, occupy and utilize such personal and real property as may be necessary or proper for the performance of its duties and functions under this Compact;

(9) To perform all functions required of the Administration by this Compact, and to do all things necessary, proper or convenient in the performance of its duties hereunder.

(h) Each State shall provide such available facilities, supplies, equipment, technical information and other assistance as the Administration may require to carry out its duties and function, and the execution and enforcement of the Administration's orders shall be the responsibility of the agents and officials of the respective States charged with the administration of water rights therein. State officials shall furnish pertinent factual and technical data to the Administration upon its request.

(i) Findings of fact made by the Administration shall not be conclusive in any court or before any agency or tribunal but shall constitute prima facie evidence of such facts.

(j) In the case of a tie vote on any of the Administration's determinations, orders or other actions subject to arbitration, then arbitration shall be a condition precedent to any right of legal action. Either side of a tie vote may, upon request, submit the question to arbitration. If there shall be arbitration, there shall be three arbitrators: one named in writing by each side, and the third chosen by the two arbitrators so elected. If the arbitrators fail to select a third within ten days, then he shall be chosen by the Representative of the United States.

(k) The salaries, if any, and the personal expenses of each member of the Administration, shall be paid by the Government which he represents. All other expenses incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the States. Ninety days prior to the Regular Session of the Legislature of either State, the Administration shall adopt and transmit to the Governor of such State for his approval, its budget covering anticipated expenses for the forthcoming biennium and the amount thereof payable by such State. Upon approval by its Governor, each State shall appropriate and pay the amount due by it to the Administration. The Administration shall keep accurate accounts of all receipts and disbursements and shall include a statement thereof, together with a certificate of audit by a certified public accountant, in its annual report. Each State shall have the right to make an examination and audit of the accounts of the Administration at any time.

(l) The Administration shall, whenever requested, provide access to its records by the Governor of either State or by the chief official of either State charged therein with the administration of water rights. The Administration shall annually on or before January 15th of each year make and transmit to the Governors of the signatory States, and to the President of the United States, a report of the Administration's activities and deliberations for the preceding year.

ARTICLE VIII

(a) This Compact shall become effective when ratified by the Legislature and approved by the Governors of both States and when approved by the Congress of the United States.

(b) The provisions of this Compact shall remain in full force and effect until modified, altered or amended, or in the same manner as hereinabove required for ratification thereof. The right so to modify, alter or amend this Compact is expressly reserved. This Compact may be terminated at any time by mutual consent of the signatory States. In the event this Compact is terminated as herein provided, all rights then vested hereunder shall continue unimpaired.

(c) Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or of

the United States of America, all other severable provisions of this Compact shall continue in full force and effect.

ARTICLE IX

This Compact is made and entered into for the sole purpose of effecting an equitable apportionment and providing beneficial uses of the waters of the Sabine River, its tributaries and its watershed, without regard to the boundary between Louisiana and Texas, and nothing herein contained shall be construed as an admission on the part of either State or any agency, commission, department or subdivision thereof, respecting the location of said boundary; and neither this Compact nor any data compiled for the preparation or administration thereof shall be offered, admitted or considered in evidence, in any dispute, controversy, or litigation bearing upon the matter of the location of said boundary.

The term "Stateline" as defined in this Compact shall not be construed to define the actual boundary between the State of Texas and the State of Louisiana.

ARTICLE X

Nothing in this Compact shall be construed as affecting, in any manner, any present or future rights or powers of the United States, its agencies, or instrumentalities in, to and over the waters of the Sabine River Basin.

IN WITNESS WHEREOF, the Representatives have executed this Compact in three counterparts hereof, each of which shall be and constitute an original, one of which shall be forwarded to the Administrator, General Services Administration of the United States of America and one of which shall be forwarded to the Governor of each State.

DONE in the City of Logansport, in the State of Louisiana, this 26th day of January, 1953.

(SIGNED—Henry L. Woodworth)
HENRY L. WOODWORTH, Representative for the State of Texas

(SIGNED—John W. Simmons)
JOHN W. SIMMONS, Representative for the State of Texas

(SIGNED—Roy T. Sessums)
ROY T. SESSUMS, Representative for the State of Louisiana

APPROVED:
(SIGNED—Louis W. Prentiss)
LOUIS W. PRENTISS, Representative of the United States.

CHAPTER 45. NEGOTIATION OF RED RIVER COMPACT**Section**

- 45.001. Appointment of Commissioner.
- 45.002. Term of Office.
- 45.003. Oath.
- 45.004. Compensation; Expenses.
- 45.005. Powers.
- 45.006. Cooperation of Water Rights Commission.
- 45.007. Agreement to be Ratified.

Section 45.001. Appointment of Commissioner

The governor, with the advice and consent of the senate, shall appoint a Red River Compact Commissioner to represent this state in conferences with duly appointed compact commissioners of other affected states and a United States representative appointed by the president, to negotiate an agreement with each of the affected states respecting the use, control, and disposition of the water of the Red River and its tributaries. (51st Legis., Ch. 380, Sec. 1.)

§ 45.002. Term of Office

The commissioner holds office for a term of two years and until his successor is appointed and has qualified. (51st Legis., Ch. 380, Sec. 2, sen. 1.)

§ 45.003. Oath

The commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as commissioner. (51st Legis., Ch. 380, Sec. 2, sen. 2.)

§ 45.004. Compensation; Expenses

The commissioner is entitled to compensation in the amount of \$6,600 per year. He is entitled to reimbursement for necessary expenses. (51st Legis., Ch. 380, Sec. 5.)

§ 45.005. Powers

(a) The commissioner may meet and confer with the compact commissioners for the other affected states and the representative of the United States at any place the commissioners consider proper.

(b) The commissioner may make investigations and procure data as necessary for the proper performance of his duties. With the approval of the governor, he may employ clerical, legal, engineering, and other employees as necessary for the proper performance of his duties. (51st Legis., Ch. 380, Sec. 2, sen. 3, 4.)

§ 45.006. Cooperation of Water Rights Commission

The Texas Water Rights Commission shall cooperate with the commissioner in the performance of his duties and shall furnish him any available data and information he needs. (51st Legis., Ch. 380, Sec. 4.)

§ 45.007. Agreement to be Ratified

Any agreement which may be entered into between the commissioner on behalf of this state and the compact commissioners of the other affected states and the representative of the United States shall be reduced to writing and submitted to the governor of this state. No such agreement has any binding effect upon this state or its legal representatives until it has been ratified by the legislature of this state and approved by the governor, ratified by the legislatures of the other affected states, and consented to by the Congress of the United States. (51st Legis., Ch. 380, Sec. 3.)

TITLE 4. GENERAL LAW DISTRICTS**CHAPTER 50. PROVISIONS GENERALLY APPLICABLE
TO DISTRICTS****SUBCHAPTER A. GENERAL PROVISIONS****Section**

50.001. Definition.

50.002. Election Procedures.

[Sections 50.003 to 50.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

50.021. Counties over 500,000: District Accounting System.

50.022. Filing Bond.

[Sections 50.023 to 50.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

50.051. Special Law Districts: Powers of Officers.

50.052. Costs of Relocation of Property.

[Sections 50.053 to 50.100 reserved for expansion]

SUBCHAPTER D. REPORTS TO COMMISSION

50.101. Order or Act Creating District.

50.102. Boundary Change.

50.103. List of Directors.

50.104. Audit Report.

50.105. Information Open to Public.

50.106. Penalty.

[Sections 50.107 to 50.150 reserved for expansion]

SUBCHAPTER E. CONDEMNATION OF CEMETERIES

50.151. Power to Condemn Cemeteries.

50.152. Condemnation Procedure.

50.153. Notice.

50.154. Measure of Damages.

50.155. Disposition of Additional Assessment.

50.156. Designation of Cemetery for Reinterment.

50.157. Bond.

[Sections 50.158 to 50.200 reserved for expansion]

SUBCHAPTER F. ANNEXATION

50.201. Description of Annexed Land.

[Sections 50.202 to 50.250 reserved for expansion]

SUBCHAPTER G. DISSOLUTION OF INACTIVE DISTRICTS

50.251. Dissolution Authority.

50.252. Notice of Hearing.

50.253. Investigation.

Section

- 50.254. Order of Dissolution.
- 50.255. Certified Copy of Order.
- 50.256. Appeals.

[Sections 50.257 to 50.270 reserved for expansion]

SUBCHAPTER H. WATER SUPPLY CONTRACTS

- 50.271. Definition.
- 50.272. Authorization to Contract.
- 50.273. Restriction on Water from Another Source.
- 50.274. Period and Terms.
- 50.275. Approval by the Texas Water Rights Commission.
- 50.276. Duty to Revise Rate of Compensation.
- 50.277. Source of Payments.

SUBCHAPTER A. GENERAL PROVISIONS

Section 50.001. Definition

As used in this chapter:

- (1) "District" means any district or authority created under this title, either by authority of Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.
- (2) "Commission" means the Texas Water Rights Commission.
- (3) "Board" means the Texas Water Development Board. (New.)

§ 50.002. Voter Qualifications; Election Procedures

The qualifications of voters in district elections are as specified in the state and federal constitutions and the procedures for conducting elections and for voting are as specified in the Texas Election Code except as otherwise provided in this title. (New.)

[Sections 50.003 to 50.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Section 50.021. Counties over 500,000: District Accounting System

- (a) This section applies only to a district that:
 - (1) is located wholly inside a county having a population of 500,000 or more; and
 - (2) is composed of territory less than the whole county.
- (b) The officers of the district shall keep a complete system of accounts. Instead of having the auditing and supervising done by the county auditor, the district may contract with some competent person, firm, or corporation qualified under law to perform this work to audit the cash, books, accounts, records, and vouchers of all officers of the district at least once a year.
- (c) One copy of the audit report shall be filed with the governing board of the district and one copy shall be filed with the county auditor. The report shall be kept open to public inspection at all reasonable times.
- (d) Other than keeping the audit report on file, the county auditor has no duty in connection with the district. (50th Legis., Ch. 265, Sec. 1.)

§ 50.022. Filing Bond

Each member of the governing board of a district created under this code and who is required by law to file an official bond shall file a copy

of the bond with the secretary of state within 10 days from the day the bond is required to be filed by law. (60th Legis., Ch. 594, Sec. 1.)

[Sections 50.023 to 50.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Section 50.051. Special Law Districts: Powers of Officers

In any district or authority that is created by legislative act under Article XVI, Section 59, of the Texas Constitution, and that has the power to provide a water supply for municipal or other uses, the directors, employees, and engineers have the same authority with respect to making surveys and attending to other business of the district or authority that directors, employees, and engineers of a water control and improvement district have under Section 51.000 of this code. (57th Legis., Ch. 422, Sec. 1.)

§ 50.052. Costs of Relocation of Property

(a) If any district or authority organized under the provisions of Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, in the exercise of the power of eminent domain, the police power, or any other power requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any highway, railroad, electric transmission, telegraph, or telephone lines, conduits, poles, properties, facilities, or pipelines, the relocation, raising, lowering, rerouting, or change in grade or alteration of construction shall be done at the sole expense of the district or authority.

(b) "Sole expense" means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction and providing comparable replacement without enhancing the facilities after deducting from it the net salvage value derived from the old facility.

(c) This section shall not be applicable to those projects under construction or financed or for which bonds have been voted and approved by the acts of any district on the effective date of this Act, unless the provisions hereinabove are contained in the acts of the district authorizing said construction or financing.

Added by Acts 1971, 62nd Leg., p. 1771, ch. 518, § 17, eff. May 31, 1971.

[Sections 50.053 to 50.100 reserved for expansion]

SUBCHAPTER D. REPORTS TO COMMISSION

Section 50.101. Order or Act Creating District

Within 60 days after the date a district is created, the district shall file with the Texas Water Rights Commission a certified copy of the order or legislative act creating the district or authorizing its creation. (54th Legis., Ch. 62, Sec. 1, sen. 1, as amended.)

§ 50.102. Boundary Change

Within 60 days after the date of any boundary change, a district shall file with the commission a certified copy of the order of the district's governing body changing the boundaries. (54th Legis., Ch. 62, Sec. 1, sen. 2, as amended.)

§ 50.103. List of Directors

(a) After any election or selection of a director, a district shall notify the commission within 30 days after the date of the election of the name of the director chosen and the date on which his term of office expires.

(b) If there is a change of directors due to resignation or death, the district shall immediately notify the commission of the name of the newly elected or appointed member. (54th Legis., Ch. 62, Sec. 2, sen. 2, 3, as amended.)

§ 50.104. Audit Report

Within 15 days after the date any audit of its affairs is completed, a district shall file a copy of the audit report with the commission and with the county clerk of the county in which the district's headquarters are located. (54th Legis., Ch. 62, Sec. 3, as amended.)

§ 50.105. Information Open to Public

The commission shall adopt a system for filing the information required by Sections 50.101–50.104 of this code, and shall allow public inspection of this file during the office hours of the commission. (54th Legis., Ch. 62, Sec. 4, as amended.)

§ 50.106. Penalty

A district that fails to comply fully with the provisions of Sections 50.101–50.104 of this code is subject to a civil penalty of \$50 and a further civil penalty of not more than \$2 a day for each day the district continues to violate these sections. However, the maximum penalty is \$300. The state may sue to recover the penalty. (54th Legis., Ch. 62, Sec. 5 as amended.)

[Sections 50.107 to 50.150 reserved for expansion]

SUBCHAPTER E. CONDEMNATION OF CEMETERIES**Section 50.151. Power to Condemn Cemeteries**

The use of land for the construction of dams and creation of lakes and reservoirs for the purpose of conservation and development of the natural resources of this state is hereby declared to be superior to all other uses; and for these purposes a district created under Article XVI, Section 59, of the Texas Constitution, has the power of eminent domain to acquire land, improvements, and other property owned and held for cemeteries or burial places that is necessary for the construction of a dam or that lies inside the area to be covered by the lake or reservoir or within 300 feet of the high-water line of the lake or reservoir. (45th Legis., Ch. 441, Sec. 1.)

§ 50.152. Condemnation Procedure

Except as otherwise provided by this subchapter, the procedure in condemnation proceedings is governed by Title 52, Revised Civil Statutes of Texas, 1925, as amended. (45th Legis., Ch. 441, Sec. 2 (part).)

§ 50.153. Notice

(a) The notice provided by Article 3264, Revised Civil Statutes of Texas, 1925, shall be served on the title owner of the land on which the cemetery is situated.

(b) General notice to persons having relatives interred in the cemetery shall be given by publication for two consecutive weeks in a newspaper published in the English language in the county in which the cemetery is

situated. If there is no newspaper published in the English language in the county, notice shall be given by publication in a newspaper in the nearest county in which such a newspaper is published. (45th Legis., Ch. 441, Sec. 2 (part).)

§ 50.154. Measure of Damages

The measure of damages in these eminent domain proceedings shall be assessed as in other cases. An additional amount of damages shall be assessed to cover the cost of removing and reintering the bodies interred in the cemetery or burial place and the cost of removing and resetting the monuments or markers erected at the graves. (45th Legis., Ch. 441, Sec. 2 (part).)

§ 50.155. Disposition of Additional Assessment

The additional assessment shall be deposited in the registry of the county court and disbursed only for the purpose of removing and reintering the bodies in other cemeteries in Texas agreed on between the district and the relatives of the deceased persons. (45th Legis., Ch. 441, Sec. 2 (part).)

§ 50.156. Designation of Cemetery for Reinterment

If in any case the district and the relatives of a deceased person cannot agree within 30 days on a cemetery for reinterment, or no relatives appear within that time, then the county judge shall designate the cemetery for reinterment. (45th Legis., Ch. 441, Sec. 2 (part).)

§ 50.157. Bond

Instead of depositing the additional assessment in the registry of the court, the district may execute a bond sufficient to cover costs of removing and reintering the bodies. The bond shall be payable to and approved by the county judge and conditioned that the bodies will be removed and reintered as provided by this subchapter. (45th Legis., Ch. 441, Sec. 2 (part).)

[Sections 50.158 to 50.200 reserved for expansion]

SUBCHAPTER F. ANNEXATION

Section 50.201. Description of Annexed Land

If a district annexes land, the land to be annexed must be described by metes and bounds, or by lot and block number if there is a recorded map or plat and survey of the land. (55th Legis., Ch. 305, Sec. 1.)

[Sections 50.202 to 50.250 reserved for expansion]

SUBCHAPTER G. DISSOLUTION OF INACTIVE DISTRICTS

Section 50.251. Dissolution Authority

After notice and hearing, the Texas Water Rights Commission may dissolve any district which is inactive for a period of five consecutive years and has no outstanding bonded indebtedness. (61st Legis., Ch. 207, Sec. 1.)

§ 50.252. Notice of Hearing

(a) The commission shall give notice of the dissolution hearing which briefly describes the reasons for the proceeding. (61st Leg., Ch. 207, Sec. 2, sen. 1.)

(b) The notice shall be published once each week for two consecutive weeks before the day of hearing in some newspaper having general circu-

lation in the county or counties in which the district is located. The first publication shall be 30 days before the day of the hearing. (61st Legis., Ch. 207, Sec. 2, sen. 2.)

(c) The commission shall give notice of the hearing by first class mail addressed to the directors of the district according to the last record on file with the commission. (61st Legis., Ch. 207, Sec. 2, sen. 3.)

§ 50.253. Investigation

The commission shall investigate the facts and circumstances of the district to be dissolved and the result of the investigation shall be included in a written report. (61st Legis., Ch. 207, Sec. 3.)

§ 50.254. Order of Dissolution

The commission may enter an order dissolving the district at the conclusion of the hearing if it finds that the district has performed none of the functions for which it was created for a period of five consecutive years before the day of the proceeding and that the district has no outstanding bonded indebtedness. (61st Legis., Ch. 207, Sec. 4.)

§ 50.255. Certified Copy of Order

The commission shall file a certified copy of the order of dissolution of the district in the deed records of the county or counties in which the district is located. If the particular district was created by special act of the legislature, the commission shall file a certified copy of the order of dissolution with the secretary of state. (61st Legis., Ch. 207, Sec. 5.)

§ 50.256. Appeals

(a) Appeals from a commission order dissolving a district shall be filed and heard in the district court of any of the counties in which the land is located. (61st Legis., Ch. 207, Sec. 6.)

(b) The trial on appeal shall be de novo and the substantial evidence rule shall not apply. (61st Legis., Ch. 207, Sec. 6A.)

[Sections 50.257 to 50.270 reserved for expansion]

SUBCHAPTER H. WATER SUPPLY CONTRACTS

Section 50.271. Definition

As used in this subchapter, "eligible district" means any district or authority created under Article XVI, Section 59, of the Texas Constitution, and any corporation formed under the provisions of Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 1434a, Vernon's Texas Civil Statutes). (61st Legis., Ch. 262, Sec. 1.)

§ 50.272. Authorization to Contract

Any eligible district may contract with any other eligible district for the purpose of supplying water to the other eligible district. (61st Legis., Ch. 262, Sec. 2, sen. 1.)

§ 50.273. Restriction on Water from Another Source

Any contract authorized under this subchapter may provide that the eligible district purchasing water shall not obtain water from any other source except to the extent provided in the contract. (61st Legis., Ch. 262, Sec. 2, sen. 2.)

§ 50.274. Period and Terms

The parties may determine the terms and time of the contract and may provide that it shall continue in effect until bonds specified in it and

bonds issued to refund these bonds are paid. (61st Legis., Ch. 262, Sec. 2, sen. 3.)

§ 50.275. Approval by the Texas Water Rights Commission

No contract shall be final until approved by the Texas Water Rights Commission if the source of water to be provided under the provisions of this subchapter is public surface water. (61st Legis., Ch. 262, Sec. 2, sen. 4.)

§ 50.276. Duty to Revise Rate of Compensation

Any water supply contract authorized under this subchapter shall be subject to the statutory or the contractual duty of the eligible district supplying water under it from time to time to revise the rate of compensation for water sold and services rendered by it so that the net revenues of the eligible district will at all times be sufficient to enable it to pay its operation and maintenance expense and to pay the principal of and interest on bonds secured by the contract to the extent provided in the resolution or order authorizing the bonds. (61st Legis., Ch. 262, Sec. 3, sen. 1.)

§ 50.277. Source of Payments

Payments to be made by an eligible district under a water supply contract shall be paid from the revenue of and constitute an operating expense of the eligible district's water system. (61st Legis., Ch. 262, Sec. 3, sen. 2.)

CHAPTER 51. WATER CONTROL AND IMPROVEMENT DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

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51.001. Definitions.

[Sections 51.002 to 51.010 reserved for expansion]

**SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION OF DISTRICT**

- 51.011. Creation of District.
- 51.012. Composition of District.
- 51.013. Petition.
- 51.014. Contents of Petition.
- 51.015. Place of Filing; Recording.
- 51.016. Board or Commission to Consider Creation of District.
- 51.017. Single-County District: Hearing.
- 51.018. Single-County District: Notice of Hearing.
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- 51.020. Single-County District: Testimony at Hearing.
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- 51.023. Single-County District: Record on Appeal; Notice of Appeal.
- 51.024. Single-County District: Hearing in District Court; Procedure.
- 51.025. Single-County District: Judgment of District Court; Appeal.
- 51.026. Single-County District: Appointment of Directors; Bond.
- 51.027. Multi-County District: Hearing by Commission.
- 51.028. Multi-County District: Notice of Hearing.

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- 51.029. Multi-County District: Deposit Accompanying Petition.
 - 51.030. Multi-County District: Hearing of Commission; Procedure.
 - 51.031. Multi-County District: Appeal from Commission Decision.
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 - 51.033. Order of Confirmation Election; Holding of Election; Preliminary Bond Proposition.
 - 51.034. Result of Election; Entry of Order.
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 - 51.036. Confirmation Election in District Including Land in more than One County.
 - 51.037. Exclusion of Parts of District; Dissolution.
 - 51.038. Municipal Districts.
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 - 51.040. Conversion of Certain Districts into Districts Operating under this Chapter.
 - 51.041. Conversion of District; Notice.
 - 51.042. Conversion of District; Findings.
 - 51.043. Effect of Conversion.
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- 51.076. Selection of Directors in Certain Districts.
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- 51.083. General Manager.
- 51.084. Director as Manager.
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- 51.086. Tax Assessor and Collector's Bond.
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- 51.088. Compensation of Tax Assessor and Collector and Deputies.
- 51.089. Additional Duties.
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- 51.093. Officers' and Employees' Bond.
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[Sections 51.658 to 51.690 reserved for expansion]

**SUBCHAPTER O. ADDING AND EXCLUDING TERRITORY
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[Sections 51.737 to 51.780 reserved for expansion]

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SUBCHAPTER A. GENERAL PROVISIONS**Section 51.001. Definitions**

In this chapter:

- (1) "District" means a water control and improvement district.
- (2) "Board" means the board of directors of a district.
- (3) "Director" means a member of the board of directors of a district.
- (4) "Commissioners court" means the commissioners court of the county in which a district or part of a district is located.
- (5) "Commission" means the Texas Water Rights Commission. (New.)

[Sections 51.002 to 51.010 reserved for expansion]

**SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION OF DISTRICT****Section 51.011. Creation of District**

A water control and improvement district may be created under and subject to the authority, conditions, and restrictions of either Article III, Section 52, of the Texas Constitution, or Article XVI, Section 59, of the Texas Constitution. (39th Legis., G.L., Ch. 25, Sec. 1, sen. 1.)

§ 51.012. Composition of District

(a) A district may include all or part of one or more counties, including any town, village, or municipal corporation, and may include any other political subdivision of the state or any defined district.

(b) The areas composing a district do not have to be contiguous but may consist of separate bodies of land separated by land not included in the district; however, each segregated area, before it may be included in the district, must cast a majority vote in favor of the creation of the district.

(c) No district may include territory located in more than one county except by a majority vote of the electors residing within the territory in each county sought to be included in the district. (39th Legis., G.L., Ch. 25, Sec. 4, as amended.)

§ 51.013. Petition

(a) A petition requesting creation of a district shall be signed by a majority of the persons who hold title to land in the proposed district which represents a total value of more than 50 percent of the value of all the land in the proposed district as indicated by the county tax rolls. If there are more than 50 persons holding title to land in the proposed district, the petition is sufficient if signed by 50 of them.

(b) The petition may be signed and filed in two or more copies. (39th Legis., G.L., Ch. 25, Sec. 10.)

§ 51.014. Contents of Petition

The petition shall include:

- (1) the name of the district;
- (2) the area and boundaries of the district;
- (3) the provision of the Texas Constitution under which the district is to be organized;
- (4) the purpose or purposes of the district;
- (5) a statement of the general nature of the work to be done and the necessity and feasibility of the project, with reasonable detail and definiteness to assist the court or commission passing on the petition in understanding the purpose, utility, feasibility, and need; and
- (6) a statement of the estimated cost of the project based on the information available to the person filing the petition at the time of filing. (39th Legis., G.L., Ch. 25, Sec. 11.)

§ 51.015. Place of Filing; Recording

(a) The petition shall be filed in the office of the county clerk of the county in which the district is located. If land in more than one county is included in the district, copies of the petition certified by the clerk shall be filed in the office of the county clerk of each county in which a portion of the district is located.

(b) The petition shall be recorded in a book kept for that purpose in the office of the county clerk.

(c) If more than one petition is filed and the petitions are identical except for the signature, one copy of the petition shall be recorded and all signatures on the other petitions shall be included. (39th Legis., G.L., Ch. 25, Sec. 12.)

§ 51.016. Board or Commission to Consider Creation of District

If the land to be included in a district is within one county, the creation of the district shall be considered and ordered by the commissioners court, but if the land to be included in a district is in two or more counties, the creation of the district shall be considered and ordered by the commission. (39th Legis., G.L., Ch. 25, Sec. 13.)

§ 51.017. Single-County District: Hearing

(a) Except as provided in Subchapter H of this chapter, if a petition is filed for the creation of a district within one county, the county judge shall issue an order setting the date of hearing on the petition by the commissioners court and shall endorse the order on the petition or on a paper attached to the petition.

(b) After the order is issued, the county clerk shall issue notice of the hearing.

(c) The petition may be considered at a regular or special session of the court. (39th Legis., G.L., Ch. 25, Sec. 14.)

§ 51.018. Single-County District: Notice of Hearing

(a) The notice of hearing on the petition shall include a statement of the nature and purpose of the district and the date, time, and place of hearing.

(b) The notice shall be prepared with one original and three copies. The county clerk shall retain one copy of the notice in his files and deliver the original and two copies to the county sheriff.

(c) The sheriff shall post one copy of the notice at the courthouse door 15 days before the day of the hearing and shall publish one copy in a newspaper of general circulation in the county once a week for two consecutive weeks. The first newspaper publication shall be made at least 20 days before the day of hearing.

(d) Before the hearing, the sheriff shall make due return of service of the notice with copy and affidavit of publication attached to the original. (39th Legis., G.L., Ch. 25, Sec. 15.)

§ 51.019. Single-County District: Name

(a) A district located in one county may be named the _____ County Water Control and Improvement District, Number _____. (Insert the name of the county and proper consecutive number.)

(b) A district may be known and designated by any term descriptive of the location of the district and descriptive of the principal powers to be exercised by the district; however, the word "district" shall be included in the designation and a consecutive number shall be assigned to it if other districts of the same name have been created in the county. (39th Legis., G.L., Ch. 25, Sec. 16, sen. 2, as amended.)

§ 51.020 Single-County District: Testimony at Hearing

(a) At the hearing on the petition, any person whose land is included in or would be affected by the creation of the district may appear and contest the creation of the district and may offer testimony to show that the district:

- (1) is or is not necessary;
- (2) would or would not be a public utility or benefit to land in the district; and
- (3) would or would not be feasible or practicable.

(b) The hearing may be adjourned from day to day. (39th Legis., G.L., Ch. 25, Sec. 17.)

§ 51.021. Single-County District: Granting or Refusing Petition

(a) The commissioners court or the commission shall grant the petition requesting the creation of a district if it appears at the hearing that:

- (1) organization of the district as requested is feasible and practicable;
- (2) the land to be included and the residents of the proposed district will be benefited by the creation of the district;
- (3) there is a public necessity or need for the district; and
- (4) the creation of the district would further the public welfare.

(b) If the commissioners court or the commission fails to make the findings required by Subsection (a) of this section, it shall refuse to grant the petition.

(c) If the commissioners court or the commission finds that any of the land sought to be included in the proposed district will not be benefited by inclusion in the district, it may exclude those lands not to be benefited and shall redefine the boundaries of the proposed district to include only the land that will receive benefits from the district.

(d) The provisions of this section do not apply to underground water conservation districts which are created under the provisions of Chapter 52 of this code. (39th Legis., G.L., Ch. 25, Sec. 19, sen. 1, 2, 3, as amended.)

§ 51.022. Single-County District: Appeal from Order of Commissioners Court

(a) If the commissioners court grants or refuses to grant the petition, any person who signed the petition or any person who appears and protests the petition and offers testimony against the creation of the district may appeal from the order of the court by giving notice of appeal in open court at the time of the entry of the order, which shall be entered on the court's docket, and by filing with the clerk of the commissioners court

within five days a good and sufficient appeal bond in the amount of \$2500.

(b) The appeal bond shall be approved by the clerk of the commissioners court payable to the county judge conditioned for the prosecution of the appeal with effect and the payment of all costs incurred with the appeal in the event that the final decree of the court is against the appellant. (39th Legis., G.L., Ch. 25, Sec. 18, sen. 1, as amended.)

§ 51.023. Single-County District: Record on Appeal; Notice of Appeal

(a) On completion of an appeal as provided in Section 51.022 of this code, the clerk of the commissioners court shall, within 10 days, prepare a certified transcript of all orders entered by the commissioners court and transmit them with all original documents, processes, and returns on processes to the clerk of the district court to which the appeal is taken.

(b) All persons shall be charged with notice of the appeal without notice or service of notice. No person who failed to appear by petition, in person, or by attorney in the commissioners court may be permitted to intervene in the district court trial. (39th Legis., G.L., Ch. 25, Sec. 18, sen. 2, 3, as amended.)

§ 51.024. Single-County District: Hearing in District Court; Procedure

(a) The district court, either in term time or in vacation time, shall schedule the appeal for hearing with all reasonable dispatch, and the judge shall give the appeal precedence over all causes which are not of like character.

(b) In the proceeding in the district court, formal pleadings shall not be required but, with the court's permission, may be filed.

(c) The trial and decision shall be by the court without the intervention of a jury, and the hearing shall be conducted as though the jurisdiction of the district court were original jurisdiction.

(d) The following matters may be contested in the district court:

(1) all matters which were or might have been presented in the commissioners court;

(2) the validity of the act under which the district is proposed to be created; and

(3) the regularity of all previous proceedings. (39th Legis., G.L., Ch. 25, Sec. 18, sen. 4, 5, 6 (part), as amended.)

§ 51.025. Single-County District: Judgment of District Court; Appeal

(a) In the appeal, the district court shall apply to the determination its full powers to the end that substantial justice may be done.

(b) An appeal from the judgment of the district court may be taken as in other civil causes, but appeals filed under Section 51.022 of this code shall be given precedence on the docket of any higher court over all causes which are not of similar public concern.

(c) The final judgment of the district court, or other court to which an appeal may be prosecuted, shall be certified and transmitted to the clerk of the commissioners court with all original documents and processes which were transmitted from the commissioners court to the district court on appeal.

(d) The commissioners court shall enter its order on the petition to conform to the decree entered by the court of final jurisdiction and shall enter other and further orders as may be required by law to execute the intent of the certified decree. (39th Legis., G.L., Ch. 25, Sec. 18, sen. 6 (part), 7, 8, as amended.)

§ 51.026. Single-County District: Appointment of Directors; Bond

(a) If the commissioners court grants a petition for creation of a district, it shall appoint five directors who shall serve until their successors are elected or appointed in accordance with law.

(b) Each director shall, within 15 days after appointment, file his official bond in the office of the county clerk, and the county clerk shall present the bond to the county judge for approval. The county judge shall pass on the bond and approve it, if it is proper and sufficient, or disapprove it and shall endorse his action on the bond and return it to the county clerk.

(c) If approved, the bond of a director shall be recorded in a record kept for that purpose in the office of the county clerk, but if a bond is not approved, a new bond may be furnished within 10 days after disapproval.

(d) If any director appointed under this section fails to qualify, the commissioners court shall appoint another person to replace him.

(e) Each director appointed under this section shall take the oath of office as provided by Section 51.078 of this code. (39th Legis., G.L., Ch. 25, Sec. 20.)

§ 51.027. Multi-County District: Hearing by Commission

(a) The commission shall have exclusive jurisdiction and power to hear and determine all petitions for creation of a district which will include land or property located in two or more counties.

(b) The orders of the commission concerning the organization of a district shall be final, unless an appeal is taken from the orders as provided in this subchapter. (39th Legis., G.L., Ch. 25, Sec. 21, sen. 1, as amended.)

§ 51.028. Multi-County District: Notice of Hearing

(a) When a petition is filed, the commission shall give notice of a hearing in the manner provided in Section 51.018 of this code.

(b) Further, the notice shall be posted at the courthouse door, on the bulletin board used for posting legal notices, in each county in which the district may be located.

(c) The notice shall be published in one or more newspapers with general circulation in the area of the proposed district. (39th Legis., G.L., Ch. 25, Sec. 21, sen. 2, as amended.)

§ 51.029. Multi-County District: Deposit Accompanying Petition

(a) A petition to create a multi-county district shall be accompanied by a deposit of \$250 for the use of the state, and no part of the deposit may be returned except as provided in Subsection (c) of this section.

(b) The deposit shall be placed with the state treasurer to be held in trust outside the state treasury until the commission either grants or refuses the petition. At the time of action on the petition, the commission shall direct the state treasurer to transfer the deposit into the general revenue fund.

(c) If at any time before the hearing on the petition, the petitioners withdraw the petition, and only in that event, the commission shall direct the refund of the deposit to petitioners or their attorney of record. The receipt of the attorney of record shall be sufficient receipt for the return of the money. (39th Legis., G.L., Ch. 25, Sec. 21, sen. 3, 4, as amended.)

§ 51.030. Multi-County District: Hearing of Commission; Procedure

(a) The commission shall hear, consider, and determine on the issues a petition filed under Section 51.028 of this code.

(b) At the hearing on the petition, the commission shall be governed by the provisions of Section 51.021 of this code. (39th Legis., G.L., Ch. 25, Sec. 21, sen. 5, as amended.)

§ 51.031. Multi-County District: Appeal from Commission Decision

(a) When the commission grants or refuses a petition, any person who comes within the requirements specified in Sections 51.020–51.025 of this code may prosecute an appeal from the judgment of the commission under Sections 51.022–51.025 of this code.

(b) The appeal may be taken to any district court in any county in which part of the proposed district is located or to a district court in Travis County.

(c) The time within which an appeal bond may be approved and filed is 15 days after the entry of the final order by the commission.

(d) On the perfection of the appeal, the appellant shall pay the actual cost of the transcript of the record, which will be assessed as part of the costs incurred on the appeal.

(e) Whenever practicable, the original documents and processes with the returns attached shall be sent to the district court. (39th Legis., G. L., Ch. 25, Sec. 21, sen. 6, 7, as amended.)

§ 51.032. Multi-County District: Appointment of Directors by Commission; Bond

(a) If the commission grants the petition for creation of the district, it shall appoint five directors, who shall serve until their successors are elected or appointed.

(b) A certified copy of the order of the commission granting a petition and naming the directors shall be filed in the office of the county clerk of each county in which a portion of the district is located.

(c) Each director named in the order shall, within 15 days after appointment, file his official bond in the office of the county clerk of the county of his residence. The county clerk shall present the bond to the county judge for approval.

(d) The county judge shall act on each bond in the manner provided in Section 51.026 of this code.

(e) If any director appointed under this section fails to qualify, the commissioners court of the county in which he lives shall appoint some qualified person to replace him. (39th Legis., G.L., Ch. 25, Sec. 22.)

§ 51.033. Order of Confirmation Election; Holding of Election; Preliminary Bond Proposition

(a) Within 30 days after the date of the first meeting of the board and before the district may incur any indebtedness other than for its operation and the holding of an election, the board shall issue and publish an order calling an election in the district to confirm the creation of the district.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "Confirmation of the district."

(c) The election shall be held in the manner provided for other elections.

(d) At the election, the proposition for the issuance of preliminary bonds may also be submitted to the district electors. Separate ballot boxes shall be provided for the different classifications of voters. (39th Legis., G.L., Ch. 25, Sec. 23, sen. 2, 3, 4, 5, as amended.)

§ 51.034. Result of Election; Entry of Order

(a) If the majority of those voting at an election held under Section 51.033 of this code vote in favor of the confirmation of the district, the district is confirmed and ratified, but if the majority of those voting at the election vote against the confirmation of the district, the district shall have no further authority, except that any debts incurred shall be paid and the organization of the district shall be maintained until all the debts are paid.

(b) If the majority of those voting at the election favor the confirmation of the district and the result is declared, the board shall enter in their minutes an order substantially as follows: "An election having been held in _____ district on the _____ day of _____ for the purpose of voting on the confirmation of the creation of the district and the results of the election resulted in a vote of _____ votes for confirmation and _____ votes against confirmation of the district, the result is declared in favor of the creation of the district. The district is therefore declared to have been legally organized with the following boundaries: (Describe boundaries)."

(c) The order shall be signed by a majority of the board and acknowledged by the president of the board. The order shall be filed for record in the office of the county clerk of any county in which the district is situated and recorded in the deed records. (39th Legis., G.L., Ch. 25, Sec. 24.)

§ 51.035. Inclusion of City, Town, or Municipal Corporation in District

(a) No city, town, or municipal corporation may be included within any district created under this chapter unless the proposition for the creation of the district has been adopted by a majority of the electors in the city, town, or municipal corporation.

(b) Any municipal corporation included within a district shall be a separate voting district, and the ballots cast within the municipal corporation shall be counted and canvassed separately from the remainder of the district.

(c) No district which includes a city, town, or municipal corporation may include land outside of the municipal corporation unless the election to confirm and ratify the creation of the district favors the creation of the district independent of the vote within the municipal corporation. (39th Legis., G.L., Ch. 25, Sec. 115, sen. 1, 2, 3.)

§ 51.036. Confirmation Election in District Including Land in more than One County

No district, the major portion of which is located in one county, may be organized to include land in another county unless the election held in the other county to confirm and ratify the creation of the district is adopted by those voting in the other county. (39th Legis., G.L., Ch. 25, Sec. 115, sen. 4.)

§ 51.037. Exclusion of Parts of District; Dissolution

(a) If any portion of a district governed by Sections 51.035 and 51.036 of this code, votes against the creation of the district and the remainder of the district votes for the creation, the district is confirmed and ratified in those portions of the district voting for the creation, and the district is composed only of those portions.

(b) The excluded portions of the district shall be excluded from all debts and obligations incurred after the election; however, all land and property included in the original district shall be subject to the payment of taxes for the payment of all debts and obligations, including organization expenses, incurred while it was a part of the district.

(c) If a district is created and portions of the proposed district are excluded by the vote in those portions, 10 percent of the voters in the district may file with the board a petition asking for a new election on the issue. A new election shall be ordered and held for the remaining portion of the district or the district organization may be dissolved by order of the board and a new district formed.

(d) A petition requesting a new election shall be filed within 30 days after the day on which the result of the election is canvassed and declared by the board. (39th Legis., G.L., Ch. 25, Sec. 115, sen. 5, 6, 7.)

§ 51.038. **Municipal Districts**

(a) A district operating under the provisions of this chapter may, by order of the board entered in the minutes, become a "municipal district."

(b) To become a municipal district, a district shall have a taxing power unlimited as to rate and amount and may not have outstanding or authorized bond obligations exceeding 20 percent of the established assessable, taxable evaluation of the real estate subject to the district's taxing power. In computing outstanding or authorized bond obligations, the bond obligations which may be retired by the district out of revenues from sources other than the income from district taxation shall not be included.

(c) To be eligible to become a municipal district, a district:

(1) shall embrace the total area of a municipal corporation which has bond obligations which may be declared eligible for purchase by savings banks and trusts under the acts of the State of New York, and which has plans designed for furnishing, in whole or in part, a water supply, sanitation facilities, flood protection, or other service inuring to the general benefit of the inhabitants of the embraced city; or

(2) shall have a population, according to the last preceding federal census, of at least 30,000 persons and have established assessable real estate values of at least \$50 million. (39th Legis., G.L., Ch. 25, Sec. 19a (part), as added.)

§ 51.039. **Bonds of Municipal Districts**

(a) A district operating under Section 51.038 of this code may issue bonds which bear the legend "municipal bond."

(b) Bonds issued in compliance with this section and with Section 51.038 of this code shall be eligible for investment of the funds of:

(1) state banks, trust funds, and savings banks;

(2) insurance companies, for the purpose of holding the bonds as legal reserves against liability under their contracts for insurance or for investment of an accumulated surplus;

(3) counties, cities, towns, and other political bodies, for the purpose of investing the accumulated sinking fund money of those bodies;

(4) the State Board of Education and the regents of The University of Texas System; and

(5) trustees, receivers, administrators, and guardians administering funds under orders of a court.

(c) Municipal bonds issued under this section, when in the lawful possession of any person, shall be lawful reserves, where reserves are required by law.

(d) The bonds are eligible for deposit with the banking and insurance departments of Texas in all cases where deposit, pledge, or security is required by law.

(e) The bonds shall be lawful security for any bank designated as an official depository for a political body under the laws of Texas. (39th Legis., G.L., Ch. 25, Sec. 19a (part), as added.)

§ 51.040. **Conversion of Certain Districts into Districts Operating under this Chapter**

(a) Any water improvement district, levee improvement district, or irrigation district created under Article III, Section 52, of the Texas Constitution, or under Article XVI, Section 59, of the Texas Constitution, or any conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, may be converted to a district operating under this chapter.

(b) The governing body of a district which desires to convert into a district operating under this chapter shall adopt and enter in the minutes

of the governing body a resolution declaring that, in its judgment, conversion into a water control and improvement district operating under this chapter and under Article XVI, Section 59, of the Texas Constitution, would serve the best interest of the district and would be a benefit to the land and property included in the district. (39th Legis., G.L., Ch. 25, Sec. 143, sen. 1, 2, as amended.)

§ 51.041. Conversion of District; Notice

(a) Notice of the adoption of a resolution under Section 51.040 of this code shall be given by publishing the resolution in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks with the first publication not less than 14 full days before the time set for a hearing.

(c) The notice shall:

(1) state the time and place of the hearing;

(2) set out the resolution in full; and

(3) notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution. (39th Legis., G. L., Ch. 25, Sec. 143, sen. 3, 4, 5, 6, 7, as amended.)

§ 51.042. Conversion of District; Findings

(a) If, on a hearing, the governing body of the district finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, it shall enter an order making this finding and the district shall become a district operating under this chapter.

(b) If the governing body finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, it shall enter an order against conversion of the district into one operating under this chapter.

(c) The findings of the governing body of a district entered under this section are final and not subject to appeal or review. (39th Legis., G.L., Ch. 25, Sec. 143, sen. 8, 9, 10, as amended.)

§ 51.043. Effect of Conversion

A district which converts into a district operating under this chapter shall:

(1) be constituted a water control and improvement district operating under and governed by this chapter;

(2) be a conservation and reclamation district under the provisions of Article XVI, Section 59, of the Texas Constitution; and

(3) have and may exercise all the powers, authority, functions, and privileges provided in this chapter in the same manner and to the same extent as if the district had been created under this chapter. (39th Legis., G.L., Ch. 25, Sec. 143, sen. 11, as amended.)

§ 51.044. Reservation of Certain Powers for Converted Districts

(a) Any water improvement district, water control and preservation district, fresh water supply district, levee improvement district, drainage district, or navigation district, after conversion under Section 51.040 of this code, may continue to exercise all necessary specific powers under any specific conditions provided by the chapter of this code under which the district was operating before conversion.

(b) At the time of making the order of conversion, the governing body shall specify in the order the specific provisions of the chapter of the code under which the district had been operating which are to be pre-

served and made applicable to the operations of the district after conversion into a district operating under this chapter.

(c) A reservation of a former power under Subsection (a) of this section may be made only if this chapter does not make specific provision concerning a matter necessary to the effectual operation of the converted district.

(d) In all cases in which this chapter does make specific provision, this chapter shall, after conversion, control the operations and procedure of the converted district. (39th Legis., G.L., Ch. 25, Sec. 143a, as added.)

§ 51.045. Conversion of a District Operating under this Chapter to a Fresh Water Supply District

(a) Any district operating under this chapter may be converted into a district operating as a fresh water supply district under Chapter 53 of this code in the manner provided in this section.

(b) The governing body of a district desiring to convert under this section shall adopt a resolution declaring that, in its judgment, conversion of the district into one operating under Chapter 53 of this code and under the provisions of Article XVI, Section 59, of the Texas Constitution, would be in the best interest of the district and would be a benefit to the land and property in the district.

(c) The resolution shall provide for a public hearing on the proposition at a date to be fixed by the governing body not less than 15 days nor more than 30 days from the date of the resolution.

(d) Notice of the hearing shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication shall be not less than 14 days before the time set for the hearing. The notice shall contain a copy of the resolution or a substantial statement of the matters contained in the resolution.

(e) At the hearing, any person may appear and offer testimony and other evidence.

(f) If, on hearing, the board finds that the conversion of the district operating under this chapter into one operating under Chapter 53 of this code would be in the best interest of the district and would be a benefit to the land and property in the district, it shall enter an order declaring the district to be one operating under Chapter 53 of this code, and thereafter, the district shall operate under the provisions of Chapter 53.

(g) If the board finds that conversion would not be in the best interest of the district and would not be a benefit to the land and property in the district, it shall enter its order to that effect and the district shall continue to operate under this chapter.

(h) The findings of the governing body shall be final and not subject to review or appeal.

(i) Nothing in this section may be construed to authorize the impairment of any existing contract. (47th Legis., G.L., Ch. 129, Sec. 7.)

§ 51.046. Organization of District to Conduct Preliminary Surveys

A district may be organized for the sole purpose of conducting preliminary surveys to determine whether or not improvements are needed and what improvements, if any, are required to promote the public welfare. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 2, as amended.)

§ 51.047. Creation of Master District

A master district may be created under this chapter and may include all or any part of the area of one or more districts created and operating under the provisions of this chapter or Chapters 53, 55, 56, 57, 60-63 of this code or Chapter 3, Title 128, Revised Civil Statutes of Texas, 1925. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 3 (part), as amended.)

§ 51.048. Purposes of Master District

(a) A master district may be created to conduct preliminary surveys and to develop a plan for the control and use of the water of any given stream, so that the improvements on one part of a watershed will be mechanically and economically related to all other improvements on the stream or its watershed.

(b) A master district also may be created to enable districts to pool their resources when necessary to economically:

- (1) make preliminary surveys;
- (2) adopt a plan to coordinate the plants, improvements, and facilities of the several constituent districts;
- (3) provide the improvements and facilities proposed to be constructed and furnished by the master district;
- (4) provide improvements for the common benefit of the several districts;
- (5) enable the districts jointly to make purchases; or
- (6) maintain or operate works for the common benefit of the several districts. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 3 (part), as amended.)

§ 51.049. Master District; Procedure

(a) The Commission shall have exclusive jurisdiction to hear and determine petitions for the creation of a master district.

(b) Each district composing part of a master district shall, for all purposes of an election, constitute a separate voting unit. No existing district may be included in a master district unless the proposal is approved by a majority of the qualified electors of the constituent district voting in the election. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 3 (part), as amended.)

§ 51.050. Master District; Directors

(a) A master district may have directors which number five, seven, or any other uneven number up to 21.

(b) The number shall be determined at the time of the creation of the district and may thereafter be changed by the directors of the district in a manner to conform to the requirements for equitable representation for the various areas of the master district.

(c) The election and qualification of the directors shall, where applicable, be controlled as provided by the other provisions of this chapter. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 4, 5, as amended.)

§ 51.051. Master District Governed by Chapter-

The provisions of this chapter, where applicable, shall govern a master district in:

- (1) the procedure for its creation;
- (2) the conduct of its affairs; and
- (3) its powers. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 6, as amended.)

§ 51.052. City, Town, or Municipal Corporation Created as a District

(a) Any city, town, or municipal corporation may have the benefit and powers provided in this chapter under the Texas Constitution and may aid any district in the construction and operation of any improvements to the extent that the improvements may be an advantage to the municipal corporation.

(b) The area included in any city, town, or municipal corporation may be organized into and constituted a district operating under this chapter with all the powers, authority, and privileges provided by Article XVI, Section 59, of the Texas Constitution. The district shall be governed by

this chapter and by an ordinance duly enacted by the governing body of the city, town, or municipal corporation.

(c) The ordinance required by Subsection (b) of this section shall appoint five directors for the district. Each director's bond shall be filed with and approved by the governing body of the municipal corporation.

(d) On the qualification of the directors, the district shall be completely organized without the necessity of an election. The district shall thereafter be governed by the provisions of this chapter. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 1, 2, 3.)

[Sections 51.053 to 51.070 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 51.071. Board of Directors

The governing body of a district is the board of directors, which shall consist of five directors. (39th Legis., G.L., Ch. 25, Sec. 36, sen. 1, 3 (part).)

§ 51.072. Qualifications for Director

To be qualified for election as a director, a person must be a resident of the state, own land subject to taxation in the district, and be at least 21 years of age. (39th Legis., G.L., Ch. 25, Sec. 36, sen. 2.)

§ 51.073. Election of Directors; Term of Office

(a) An election shall be held in the district on the second Tuesday in January following the creation of the district to elect five directors.

(b) The three directors receiving the highest number of votes shall serve as directors for two years, and the other two directors shall serve for one year.

(c) At the second election of directors, two directors shall be elected to serve for two years.

(d) After the second election of directors, an election shall be held each year with two directors elected one year and three the next year in continuing sequence. (39th Legis., G.L., Ch. 25, Sec. 37, as amended.)

§ 51.074. Election to Replace Directors Temporarily Appointed by Commission

(a) A district organized by order of the commission shall elect five directors at the election which is held to confirm the creation of the district. The names of the five appointed directors shall be placed on the ballot, with a blank space left to write in the names of other persons.

(b) If the appointed directors are elected, they shall be confirmed without the necessity of furnishing new bonds and shall continue in office.

(c) If any of the appointed directors are not elected, the person or persons elected in their places must furnish bond, which shall be approved in the manner provided for directors first appointed. (39th Legis., G.L., Ch. 25, Sec. 25.)

§ 51.075. Application to Get on Ballot

A candidate for the office of director or other elective office may file an application with the secretary of the board to have his name printed on the election ballot. The application must be signed by the applicant or by at least 10 qualified electors of the district and must be filed at least 20 days before the date of the election. (39th Legis., G.L., Ch. 25, Sec. 145.)

§ 51.076. Selection of Directors in Certain Districts

(a) In a district created after June 18, 1967; with boundaries coterminous with the boundaries of a county, the commissioners court may provide in the order granting the petition for creation that the directors are to be selected either as provided in Section 51.073 of this code or by the "commissioners precinct method," which provides for the election of two directors from each commissioners precinct in the county and the election of one director from the county at large. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (a), (b), as added.)

(b) If the commissioners court provides for the commissioners precinct method, it may appoint two qualified directors from each commissioners precinct and one director from the county at large, who shall serve until their successors are elected and have qualified. Except for the provisions of this subsection, Section 51.026 of this code applies to the appointment of the initial directors. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (g), as added.)

(c) The directors appointed by the commissioners court under Subsection (b) of this section shall order an election in the district on the second Tuesday in January following the creation of the district. The two persons receiving the highest number of votes in each precinct are the directors from that precinct, and the person receiving the highest number of votes from the county at large is the director at large. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (c), as added.)

(d) Of the two persons elected from each commissioners precinct, the person who receives the highest number of votes in each precinct shall serve for two years and until his successor is elected and has qualified, and the person receiving the second highest number of votes in each precinct shall serve for one year and until his successor is elected and has qualified. The person who is elected from the county at large shall serve for two years and until his successor is elected and has qualified. At each annual election after the first annual election, a person who is elected director shall serve for two years and until his successor is elected and has qualified. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (d), as added.)

(e) To be qualified for election as a director from a commissioners precinct, a person must be 21 years of age, a citizen of the state, and own land subject to taxation in the commissioners precinct from which he is elected. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (e), as added.)

(f) To be qualified for election as a director from the county at large, a person must possess the qualifications specified in Section 51.072 of this code. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (f), as added.)

(g) If a vacancy occurs in the office of director between regular elections, the vacancy shall be filled for the unexpired term at a special election in the director's precinct. The special election shall be called by a majority of the remaining members of the board within 8 days after the vacancy occurs and to be held not more than 40 days after the vacancy occurs. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (h), as added.)

(h) Except as otherwise provided in this section, all laws relating to the election and qualification of directors of a district shall govern and control the election and qualification of directors selected by the commissioners precinct method whether the precinct election is regular or special. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (i), as added.)

§ 51.077. Organization of Board

After a district is created and the directors have qualified, the board shall meet, elect a president, vice president, and secretary, and begin the discharge of its duties. (39th Legis., G.L., Ch. 25, Sec. 23, sen. 1, as amended.)

§ 51.078. Director's Oath

Each director shall take the oath of office prescribed by law for county commissioners. (39th Legis., G.L., Ch. 25, Sec. 39, sen. 2.)

§ 51.079. Director's Bond

(a) Each director shall execute a good and sufficient bond for \$5,000, payable to the district, conditioned on the faithful performance of his duties.

(b) After the creation of the district and the qualification of the first board of directors, all bonds required to be given by a director or other officer of the district are subject to the approval of the board.

(c) The county clerk of the county in which the director lives shall record each bond in the bond records of the county. The bond also shall be recorded in a bond record in the district office and filed for safekeeping in the depository of the district. (39th Legis., G.L., Ch. 25, Sec. 39, sen. 1, 3, 4.)

§ 51.080. Compensation of Directors

(a) A director is entitled to receive compensation of not more than \$25 a day for each day he actually spends performing his duties as a director, but the fees shall not be more than \$100 for any one month.

(b) Before a director may receive compensation for his services, he shall file with the secretary a verified statement showing the number of days actually spent in the service of the district. The statement shall be filed on the last day of the month, or as soon after that time as possible. (39th Legis., G.L., Ch. 25, Sec. 43, as amended.)

§ 51.081. Officers; Quorum

(a) The president is the chief executive officer of the district and presides at all meetings of the board. The vice president shall act as president in case of the absence or disability of the president. The secretary is secretary of the board and is responsible for seeing that all records and books of the district are properly kept. In the case of the absence or inability of the secretary to act, the board shall select a secretary pro tem.

(b) Three directors constitute a quorum for any meeting, and a concurrence of three is sufficient for transacting any business of the district except letting construction contracts and drawing warrants on the depository for payment of the contracts, which require the concurrence and signature of four directors. Warrants to pay current expenses, salaries, and accounts may be drawn by an officer or employee designated by standing order entered in the minutes when these accounts have been contracted and ordered paid by the directors. (39th Legis., G.L., Ch. 25, Sec. 41, and Sec. 42, sen. 1, 2, 3, 4.)

§ 51.082. Vacancies

(a) All vacancies on the board and in other offices shall be filled for the unexpired term by appointment of the board.

(b) If the number of directors is reduced to fewer than three, the vacancies shall be filled by special election ordered by the remaining members of the board. If the director or directors fail to order an election within 15 days after the vacancies occur, any voter or creditor of the district may petition the district judge of any judicial district in which land of the district is located, and the judge may order the election, fixing the date, ordering the publication of notice by any county sheriff, and naming the officers to hold the election.

(c) The returns of the election ordered by a district judge shall be made to and filed in the office of the clerk of the court and he shall declare the result of the election.

(d) The officers elected shall furnish bond and qualify in the manner provided in this chapter for directors first appointed for a district on its creation. (39th Legis., G.L., Ch. 25, Sec. 38.)

§ 51.083. General Manager

The board 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 orders of the board. (39th Legis., G.L., Ch. 25, Sec. 46, sen. 1.)

§ 51.084. Director as Manager

A director may be employed as general manager with compensation fixed by the other four directors. When so employed, he shall continue to perform the duties of a director. (39th Legis., G.L., Ch. 25, Sec. 36, sen. 7.)

§ 51.085. District Tax Assessor and Collector

The board may appoint one person to the office of tax assessor and collector, or it may order an election to fill that office. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 1, 2, as amended.)

§ 51.086. Tax Assessor and Collector's Bond

(a) The tax assessor and collector shall execute a good and sufficient bond for \$5,000, signed by at least two sufficient sureties or a surety company and approved by the board. The bond shall be conditioned on the faithful performance of his duties and on his paying to the depository all money or other things of value that he receives in his capacity as tax assessor and collector.

(b) The board may require the tax assessor and collector to give additional bonds or security or a larger bond at any time. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 3, 4, as amended.)

§ 51.087. Deputy Tax Assessor and Collector

(a) The board may appoint one or more deputies to assist the tax assessor and collector for a period not to exceed one year.

(b) Each deputy may be required to furnish a bond with similar conditions to the bond required by the tax assessor and collector. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 5, as amended.)

§ 51.088. Compensation of Tax Assessor and Collector and Deputies

The board shall fix the compensation of the tax assessor and collector and each deputy. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 6, as amended.)

§ 51.089. Additional Duties

The board may require the tax assessor and collector to perform duties other than those specified in this chapter. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 7, as amended.)

§ 51.090. Bonds of Officers of a District Acting as Fiscal Agent or Collecting Money for United States

(a) If a district is appointed fiscal agent for the United States or if a district is authorized to make collections of money for the United States in connection with a federal reclamation project, each director and offi-

cer of the district including the tax assessor and collector shall execute an additional bond in the amount required by the secretary of the interior, conditioned on the faithful discharge of his respective office and on the faithful discharge by the district of its duties as fiscal or other agent of the United States under its appointment or authorization.

(b) The additional bonds shall be approved, recorded, and filed as provided in this chapter for other official bonds.

(c) Suit may be brought on the bonds by the United States or any person injured by the failure of the officer or the district to fully, promptly, and completely perform their respective duties. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 8, 9, 10, as amended.)

§ 51.091. Employees of the District

The board shall employ all persons necessary for the proper handling of the business and operation of the district, its plant and improvements. It may employ attorneys, bookkeepers, engineers, laborers, and a civil engineer, who shall be an officer of the district, to be known as "District Engineer." (39th Legis., G.L., Ch. 25, Sec. 36, sen. 4, 5, and Sec. 52, sen. 1.)

§ 51.092. Employees' Compensation and Terms of Employment

The board shall determine the term of office and compensation to be paid the general manager and all employees. All employees may be removed by the board. (39th Legis., G.L., Ch. 25, Sec. 46, sen. 2.)

§ 51.093. Officers' and Employees' Bond

(a) The board shall require an officer or employee who collects, pays, or handles any funds of the district to furnish good and sufficient bond, payable to the district, for a sufficient amount to safeguard the district. The bond shall be conditioned on the faithful performance of his duties and on accounting for all funds and property of the district coming into his hands.

(b) The bond may be signed by individual sureties or by surety companies authorized to do business in the state. (39th Legis., G.L., Ch. 25, Sec. 40, 47.)

§ 51.094. District Office

The board shall maintain a regular office for conducting the business of the district. The office shall be located inside the district, or if the district does not include towns which are within or adjoining the territory included in the district, it may be located in a nearby town which is best suited for the transaction of the business. (39th Legis., G.L., Ch. 25, Sec. 44, sen. 3.)

§ 51.095. Meetings

(a) The board shall hold regular meetings at the district office on the first Monday in February, May, August, and November of each year at 10 a. m. and may hold meetings at other times when required for the business of the district.

(b) Any person owning taxable property in the district may attend any meeting of the board and may present in an orderly manner matters for the board's consideration. (39th Legis., G.L., Ch. 25, Sec. 42, sen. 5, 6.)

§ 51.096. Minutes and Records of the District

The board shall keep a true and complete account of all its meetings and proceedings, and shall preserve its minutes, contracts, records, notices, accounts, receipts, and records of all kinds in a fireproof vault or safe. All minutes, contracts, records, notices, accounts, receipts, and oth-

er records are the property of the district and subject to public inspection. (39th Legis., G.L., Ch. 25, Sec. 44, sen. 1, 2.)

§ 51.097. Recording Proceedings

All proceedings of the board and all decrees and orders of any court affecting the creation, boundaries, or validity of the district must be recorded in a special record book kept for that purpose in the office of the county clerk of each county in which the district is located. This recording is in addition to other recording provisions in this chapter. (39th Legis., G.L., Ch. 25, Sec. 147b, as added.)

§ 51.098. Contracts

District contracts shall be executed by the board in the name of the district. (39th Legis., G.L., Ch. 25, Sec. 36, sen. 3 (part), and Sec. 51, sen. 3.)

§ 51.099. Suits

A district may sue and be sued in the courts of this state in the name of the district by and through its board. All courts shall take judicial notice of the creation of the district and of its boundaries. (39th Legis., G.L., Ch. 25, Sec. 51, sen. 1, 2, and Sec. 137, sen. 2.)

§ 51.100. Payment of Judgment Against District

Any court in the state rendering judgment for debt against a district may order the board to levy, assess, and collect taxes or assessments to pay the judgment. (39th Legis., G.L., Ch. 25, Sec. 136.)

§ 51.101. Actions Contesting District, Bonds, or Contracts; Suit by Attorney General

(a) Except as provided in Subsection (b) of this section, and as provided in Sections 51.021–51.025 of this code, no suit may be instituted in any court of this state contesting:

- (1) the validity of the creation and boundaries of a district created under this chapter;
- (2) any bonds or other obligations created under this chapter; or
- (3) the validity or the authorization of a contract with the United States by the district.

(b) The matters listed in Subsection (a) of this section may be judicially inquired into at any time and determined in any suit brought by the State of Texas, through the attorney general, on his own motion or on the motion of any person affected by the existence or plans of the district. The action shall be brought on good cause shown, except where otherwise provided by other provisions of this chapter or by the Texas Constitution. (39th Legis., G.L., Ch. 25, Sec. 25a, as added.)

[Sections 51.102 to 51.120 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 51.121. Purposes of District

(a) A water control and improvement district organized under the provisions of Article III, Section 52, of the Texas Constitution, may provide for:

- (1) the improvement of rivers, creeks, and streams to prevent overflows, to permit navigation or irrigation, or to aid in these purposes; or
- (2) the construction and maintenance of pools, lakes, reservoirs, dams, canals, and waterways for irrigation, drainage, or navigation, or to aid these purposes. (39th Legis., G.L., Ch. 25, Sec. 2.)

(b) A water control and improvement district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, may provide for:

- (1) the control, storage, preservation, and distribution of its water and floodwater and the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land which needs irrigation;
- (3) the reclamation, drainage, conservation, and development of its forests, water, and hydroelectric power;
- (4) the navigation of its coastal and inland water;
- (5) the control, abatement, and change of any shortage or harmful excess of water;
- (6) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (7) the preservation and conservation of all natural resources of the state.

(c) The purposes stated in Subsection (b) of this section may be accomplished by any practical means. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 1, as amended.)

§ 51.122. Powers of District

The district has the functions, powers, authority, rights, and duties which will permit the accomplishment of the purposes for which it was created, including the investigation and, in case a plan for improvements is adopted, the construction, maintenance, and operation of necessary improvements, plants, works, and facilities, and the acquisition of water rights and all other properties, land, tenements, materials, borrow and waste ground, easements, rights-of-way, and everything considered necessary, incident, or helpful to accomplish by any practicable mechanical means any one or more of the objects authorized for the district, subject only to the restrictions imposed by the constitutions of Texas or the United States. A district also may acquire property deemed necessary for the extension or enlargement of the plant, works, improvements, or service of the district. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 1 (part), as amended; Sec. 48, sen. 1, as amended; and Sec. 125, sen. 1 (part), 2 (part), 3 (part), as amended.)

§ 51.123. Acquisition of Property

(a) A district may acquire the land material, borrow and waste ground, rights-of-way, easements, or other property by gift, grant, purchase, or condemnation.

(b) The district may acquire either the fee simple title to or an easement on all land, public or private, located inside or outside the district.

(c) The district may require the title to or an easement on property other than land held in fee. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 1 (part), 2 (part), as amended.)

§ 51.124. Planning

The board may make investigations and plans necessary to the operation of the district and the construction of improvements. It may employ engineers, attorneys, bond experts, and other agents and employees required to perform this duty. (39th Legis., G.L., Ch. 25, Sec. 31, sen. 1, 2.)

§ 51.125. Construction of Improvements

A district may construct all works and improvements necessary:

- (1) for the prevention of floods;
- (2) for the irrigation of land in the district;
- (3) for the drainage of land in the district, including drainage ditches or other facilities for drainage;

- (4) for the construction of levees to protect the land in the district from overflow;
- (5) to alter land elevations where correction is needed; and
- (6) to supply water for municipal uses, domestic uses, power and commercial purposes, and all other beneficial uses or controls. (39th Legis., G.L., Ch. 25, Sec. 48, sen. 2, as amended, and Sec. 124.)

§ 51.126. Purchase of Machinery and Supplies

The board may purchase machinery, materials, and supplies needed in the construction, operation, maintenance, and repair of district improvements. (39th Legis., G.L., Ch. 25, Sec. 36, sen. 6.)

§ 51.127. Adopting Rules and Regulations

A district may adopt and make known reasonable regulations to:

- (1) secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of sanitary sewer systems;
- (2) preserve the sanitary condition of all water controlled by the district;
- (3) prevent waste or the unauthorized use of water; and
- (4) regulate residence, hunting, fishing, boating, and camping, and all recreational and business privileges on any body or stream of water, or any body of land, or any easement owned or controlled by the district. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 1 (part), as amended.)

§ 51.128. Effect of Rules and Regulations

After the required publication, rules and regulations adopted by the district under Section 51.127 of this code shall be recognized by the courts as if they were penal ordinances of a city. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 4 (part), as amended.)

§ 51.129. Publication of Rules and Regulations

(a) The board shall publish once a week for two consecutive weeks a substantive statement of the rules or regulations and the penalty for their violation in one or more newspapers with general circulation in the area in which the property of the district is located.

(b) The substantive statement shall be as condensed as is possible to intelligently explain the purpose to be accomplished or the act forbidden by the rule or regulation.

(c) The notice must advise that breach of the regulations will subject the violator to a penalty and that the full text of the regulation is on file in the principal office of the district where it may be read by any interested person.

(d) Any number of regulations may be included in one notice. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 3 (part), as amended.)

§ 51.130. Effective Date of Rules and Regulations

The penalty for violation of a rule or regulation is not effective and enforceable until five days after the publication of the notice. Five days after the publication, the published regulation shall be in effect and ignorance of it is not a defense for a prosecution for the enforcement of the penalty. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 3 (part), 4 (part), as amended.)

§ 51.131. Penalties for Violation of Regulation

(a) The board may set reasonable penalties for the breach of any regulation of the district, which shall not exceed fines of more than \$200 or imprisonment for more than 30 days or both.

(b) These penalties shall be in addition to any other penalties provided by the laws of the state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 2, 3 (part), as amended.)

§ 51.132. Enforcement by Peace Officers

A district may employ its own peace officers with power to:

(1) make arrests when necessary to prevent or abate the commission of any offense against the regulations of the district and against the laws of the state when the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district; or

(2) make an arrest in case of an offense involving injury or detriment to any property owned or controlled by the district. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 5, as amended.)

§ 51.133. Constructing Bridges and Culverts Across and Over County and Public Roads

The district shall build necessary bridges and culverts across and over district canals, laterals, and ditches which cross county or public roads. Funds of the district shall be used to construct the bridges and culverts. (39th Legis., G.L., Ch. 25, Sec. 123.)

§ 51.134. Constructing Culverts and Bridges Across and Under Railroad Tracks, Roadways, and Interurban or Street Railways

(a) The district, at its own expense, may build necessary bridges and culverts across or under any railroad tracks or roadways of any railroad or any interurban, or street railway to enable the district to construct and maintain any canal, lateral, ditch, or other improvement of the district.

(b) Before the district builds a bridge or culvert, the board shall deliver written notice to the local agent, superintendent, roadmaster, or owner. The railroad company or its owner shall have 60 days in which to build the bridge at its own expense and according to its own plans.

(c) The canal, culvert, ditch, or structure shall be constructed of sufficient size and proper plan to serve the purpose for which it is intended. (39th Legis., G.L., Ch. 25, Sec. 122.)

§ 51.135. Contracting for Toll Bridges and Ferry Service

(a) A district may make contracts with responsible persons for the construction and operation of toll bridges over the district's water for not more than 20 years or for ferry service on or over the district's water for not more than 10 years.

(b) The contract shall set reasonable compensation to be charged for service by the facility and shall require adequate bond or bonds from the person with whom it enters into the contract, payable to the district, on the conditions and in the amount which the board considers necessary.

(c) The contracts may provide for forfeiture of the franchise for a failure of the licensee to render adequate public service. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 1 (part), as amended.)

§ 51.136. Right to Enter Land

The board, the district engineer, and the employees of the district may enter any land inside or outside the district to make surveys for reservoirs, canals, rights-of-way, dams, or other contemplated improvements and to attend to any business of the district. (39th Legis., G.L., Ch. 25, Sec. 49.)

§ 51.137. Power to Contract

The district may enter into a contract for the use by another of its water, power, facilities, or service, either inside or outside the district, except that a contract may not be made which impairs the ability of the district to serve lawful demands for service within the district. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 3 (part), as amended.)

§ 51.138. Investigation and Report of Engineer

(a) The district engineer shall make a thorough study and investigation of all plans of the district and make and file in the district office a report on all plans for construction of plants and improvements.

(b) The board shall provide and keep a book in the district office, to be known as the "Engineer's Record," in which all reports and recommendations made by the district engineer shall be recorded. The "Engineer's Record" shall be open to public inspection.

(c) A contract for more than \$20,000 may not be made by the district unless the district has a district engineer who has made a proper study and report on it. (39th Legis., G.L., Ch. 25, Sec. 52, sen. 2, 3, 4.)

§ 51.139. Contracts for Materials, Machinery, Construction, Etc., for more than \$10,000

(a) With the exception of a district operating under a contract with the United States, the board shall let a contract for more than \$10,000 for the purchase of materials, machinery, and all things to constitute the plant, works, facilities, and improvements of the district or for construction as specified in Subsections (b)-(d) of this section.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids. The notice shall be published in one or more newspapers with general circulation in the state, and one or more newspapers published in each county in which part of the district is located to give general circulation in the district. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. If no newspaper is published in the county or counties in which the district is located, publication in one or more newspapers with general circulation in the state is sufficient. The notice shall be published once a week for three consecutive weeks prior to the date that the bids are opened, and the first publication shall be at least 21 days before the opening of sealed bids.

(c) A contract may cover all the improvements to be provided by the district, or the various elements of the improvements may be segregated for the purpose of receiving bids and awarding contracts.

(d) A contract may provide for the payment of a total sum which is the completed cost of the improvement or may be based on bids to cover cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers.

(e) A contract may be let and awarded in any other form or composite of forms and to any responsible person or persons which, in the board's judgment, will be most advantageous to the district and result in the best and most economical completion of the district's proposed plant, improvements, facilities, and works.

(f) A contract is not valid if the total sum required to fully complete the proposed plant, works, facilities, and improvements, as stipulated by the district's adopted plans, exceeds the total sum estimated by the district's engineer in his plans, adopted by the district prior to the election for the authorization of bonds sufficient to pay the completed cost of all elements of the proposed works, other than the cost of land, easements, and other property necessary to be acquired under the provisions of Subchapter F of this chapter. (39th Legis., G.L., Ch. 25, Sec. 117, as amended.)

§ 51.140. Construction Bids

(a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a certified check on a responsible bank in the state for at least one percent of the total amount of the bid.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the district or fails or refuses to furnish the bond required by law, he forfeits the amount of the certified check which accompanied his bid, and the bank certifying the check is liable for it to the district. (39th Legis., Ch. 25, Sec. 118, sen. 2, 3, 4.)

§ 51.141. Reports Furnished to Prospective Bidders

The board shall furnish to any person who desires to bid on construction work, and who requests it in writing, a copy of the engineer's report which shows the work to be done and all details of it. The board may charge for each copy of the engineer's report an amount sufficient to cover the cost of making the copy. (39th Legis., G.L., Ch. 25, Sec. 118, sen. 1.)

§ 51.142. Provisions of Contracts for Construction Work

(a) Any contract made by the board for construction work shall conform to the provisions of this chapter, and the provisions of this chapter will be considered to be a part of the contract and shall prevail when the provisions of this chapter and the contract are in conflict.

(b) The contract shall contain, or have attached to it, the specifications, plans, and details for work included in the contract, and all work shall be done in accordance with these plans and specifications under the supervision of the board and the district engineer. (39th Legis., G.L., Ch. 25, Sec. 119, sen. 1, 3.)

§ 51.143. Executing and Recording Construction Contract

(a) Contracts for construction work shall be in writing and signed by the board and the contractor.

(b) A copy of the contract shall be filed with the county clerk, and the county clerk shall record the contract in a book kept for that purpose.

(c) The contract shall be available for public inspection. (39th Legis., G.L., Ch. 25, Sec. 119, sen. 2.)

§ 51.144. Contractor's Bond

(a) The contractor shall execute a bond in an amount determined by the board, not to exceed the contract price, payable to the district, conditioned on the faithful performance of the obligations, agreements, and covenants of the contract.

(b) The bond shall provide that if the contractor defaults on the contract, he will pay to the district all damages sustained as a result of the default or complete the contract according to its terms.

(c) All sureties signing the bond are bound by it to the same extent that the principal is bound, regardless of the technical defenses.

(d) The bond shall be deposited in the district depository, and a true record of it shall be entered in a record book in the district office. (39th Legis., G.L., Ch. 25, Sec. 121.)

§ 51.145. Inspection of and Reports on Construction Work

(a) The board shall inspect construction work being done for the district under contract to determine whether or not the contract is being fulfilled and shall have the construction work inspected by the district engineer and his assistants. (39th Legis., G.L., Ch. 25, Sec. 120, sen. 2 (part).)

(b) During the progress of the construction work, the district engineer shall submit to the board detailed written reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report showing whether or not the contractor has fully complied with the contract. (39th Legis., G.L., Ch. 25, Sec. 119, sen. 4.)

§ 51.146. Payment for Construction Work

When construction work is completed according to the terms of the contract, the board shall draw a warrant on the district depository to pay any balance due on the contract. (39th Legis., G.L., Ch. 25, Sec. 120, sen. 2 (part).)

§ 51.147. Partial Payment of Construction Work

The board may pay for a construction contract in partial payments as the work progresses, but partial payments shall not be more than 85 percent of the amount due at the time of the partial payment as shown by the report of the district engineer. (39th Legis., G.L., Ch. 25, Sec. 120, sen. 1.)

§ 51.148. Repealed by Acts 1971, 62nd Leg., p. 1769, ch. 518, § 10, eff. May 31, 1971

Section 51.148 authorized contracts for construction and repairs by districts in counties over 500,000.

§ 51.149. Contribution to Construction by another District

If it serves its best interest, a district may contribute to the construction of any improvement by another similar district which benefits the contributing district. The board may contract with the other district and determine the contribution in proportion to the cost of the construction. (39th Legis., G.L., Ch. 25, Sec. 127.)

§ 51.150. Joint Ownership Contracts

(a) Two or more districts may enter into a contract to jointly own and construct irrigation works and reservoirs, levees, flood-control retarding systems, drainage systems, and all other plants, works, and improvements which they are authorized to own or construct. The contract may include provisions for joint construction and operation, but the terms and conditions may not conflict with the laws providing for the creation and operation of the districts.

(b) The parties joining in the contract shall have the terms of their agreement incorporated into a written or printed contract. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 1, 5 (part), 8, as amended.)

§ 51.151. Election to Approve a Joint Ownership and Construction Contract

(a) Before the districts may be bound by a joint ownership and construction contract made under Section 51.150 of this code, an election to approve the contract must be held in each of the districts.

(b) The election to approve the contract shall be held on the same day in each district.

(c) Notice of the election shall be the same as notice of the election for the creation of a district under this chapter.

(d) At least 15 days before the day of the election, a copy of the contract must be filed in the office of each of the districts and be made available for public inspection, and each district must furnish a copy of the contract to any elector who appears at the office and requests a copy.

(e) If a majority of the electors in each district approve the contract at the election, the contract is adopted and is binding.

(f) The contract may be amended in the manner provided for adopting the original contract. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 2, 3, 4, 5 (part), 9, as amended.)

§ 51.152. General Manager for Joint Projects

The boards of the districts which are parties to a joint ownership and construction contract may employ a general manager for the joint project. The duties of the general manager may be included in the provisions of the joint contract. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 7, as amended.)

§ 51.153. Transactions in District Names under Joint Ownership and Construction Contract

All bids, bonds, contracts, and other transactions made under a joint ownership and construction contract may be made in the names of the districts which are parties to the contract. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 6 (part), as amended.)

§ 51.154. Joint Projects under Joint Ownership and Construction Contracts

(a) When districts operating under a joint ownership and construction contract plan to construct any improvements, the districts may call jointly for bids on these improvements.

(b) The bids may be opened and considered at the office of either of the districts which are parties to the contract.

(c) The boards shall approve the award of the contract and the contractor's bond. The boards may meet for this purpose either at an office outside the districts or at an office established for transaction of all business of the joint project. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 6 (part), as amended.)

§ 51.155. Additional Powers of Districts under Joint Ownership and Construction Contracts

Districts which are acting under a joint ownership and construction contract may exercise jointly all powers which may be exercised by a single district. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 6 (part), as amended.)

§ 51.156. Contract with the United States

(a) The board of a district organized under the provisions of Article XVI, Section 59, of the Texas Constitution to irrigate arid land may contract with the United States for the investigation, construction, extension, operation, and maintenance of any federal reclamation project of benefit to the district and authorized under the National Reclamation Act of 1902, as amended.

(b) The board may contract to secure a district water supply from the federal reclamation project and to pay to the United States the agreed cost of it in the form of construction charges, operation and maintenance charges, and water rental charges, as shown by the contract and in accordance with the terms and conditions of the national reclamation law. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 1, as amended.)

§ 51.157. Construction Charges under a Contract with the United States

The construction charges under a contract with the United States may include the cost of drainage and flood-control works necessary to control floods or to maintain the irrigability of district land, and the cost of inci-

dental electric power and municipal water service which the water supply of the reclamation project makes feasible. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 2, as amended.)

§ 51.158. Election to Approve a Contract with the United States

(a) The electors of the district shall vote to approve every contract involving the payment of construction charges to the United States. The provisions of this chapter relating to the election to approve the validation of district bonds shall be followed, including the prosecution of an action in court to determine the validity of the contract.

(b) The notice of election shall state the maximum amount, exclusive of operation and maintenance charges, water rental charges, interest, and penalties, payable by the district to the United States under the contract.

(c) The ballot shall be printed to provide for voting for or against the proposition: "The contract with the United States and levy of taxes to make payments under the contract." This is the only proposition which may appear on the ballot. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 3, 4, as amended.)

§ 51.159. Conveying Property to the United States

A district may convey any property to the United States necessary for the construction, operation, or maintenance of federal reclamation works used or to be used for the benefit of the district. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 5, as amended, and Sec. 125, sen. 4, as amended.)

§ 51.160. Engineering Data Unnecessary

If a district contracts with the United States under the provisions of Section 51.155 of this code for use by the district of federal reclamation works, the district need not prepare or file any engineering data for the construction of the works. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 6, as amended.)

§ 51.161. Consent of United States to Alter District's Boundaries

Until all money has been paid by the district which is due to the United States under a contract relating to a federal reclamation project, the United States must consent to any change in the boundaries of the district. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 7, as amended.)

§ 51.162. Taxes Levied by District under Contract with the United States

(a) A district which enters into a contract with the United States shall levy annually sufficient taxes to provide payment of all installments required by the contract.

(b) The board may apportion benefits and levy and collect taxes on the benefit basis instead of the ad valorem basis with the approval of the district electors.

(c) The board may pay construction charges when provided by contract on the basis of the average gross annual acre income of the land of the district or designated divisions or subdivisions of the district. The secretary of the interior shall determine the annual gross acre income. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 8, as amended.)

§ 51.163. Assessments for Contracts with the United States

The board shall levy annually sufficient assessments to collect the money required to pay all the district's obligations in full when due regardless of any delinquency in payment of assessments by any tract of land. If collections in any year are insufficient to pay the obligations of the district, the levy shall be increased sufficiently the following year to cover the deficit. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 9, 10, as amended.)

§ 51.164. Duration of Annual Levies for Contracts with the United States

The board shall continue annual levies for payment of construction charges each year against each tract of land in the district even though construction charges apportioned against other tracts of land in the district may be paid sooner or later. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 11, as amended.)

§ 51.165. Superiority of Lien to Secure Contract with the United States

The lien against district land created by a contract with the United States shall be superior to the lien created by any district bonds approved subsequent to the date of the contract with the United States. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 12, as amended.)

§ 51.166. District's Authority to Solicit Cooperation, Donations, and Contributions from other Agencies

A district organized under the provisions of this chapter may solicit cooperation, donations, and contributions from the United States, the state, or any other state or nation; any county, municipality, water improvement district, water control and improvement district, drainage district, or any other political subdivision of the state; or any person, co-partnership, corporation, or association. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 1 (part), as amended.)

§ 51.167. Expense of Procuring Cooperation and Contributions from Other Agencies

A district may incur reasonable expense to procure cooperation under Section 51.166 of this code in adding to the area of the district or with contributions to the cost of improvements made by the district. The contributions may be either a percentage of cost or a definite annual sum. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 1 (part), as amended.)

§ 51.168. Authority of Contributor

(a) Any water improvement district, water control and improvement district, levee improvement district, county, city, town, or other political subdivision of the state may contract to contribute to the cost of the construction of drainage, flood-control or water-supply improvements, or the changing of land elevations which need correction. The improvements to be constructed may be outside the contributing district, municipality, or other political subdivision of the state, and may be located outside the state or the United States.

(b) The works may be constructed by any agency.

(c) The contribution shall be proportionate to the benefit which the contributor will derive from the proposed improvements. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 2, 3, as amended.)

§ 51.169. Issuance of Bonds by Contributor

(a) The contract may provide for the issuance of bonds by the contributor and for direct payment from the proceeds of the bonds to contractors on the estimates of the engineer for the contributor.

(b) Before issuing bonds, a contributing political subdivision shall submit the contract for contribution to its electors for approval and for authority to issue the bonds, fix a lien to secure the bonds, and levy, assess, and collect taxes to retire the bonds. The procedure by a contributing political subdivision of the state shall conform to the applicable law under which the political subdivision was organized and authorized to create bonded indebtedness.

(c) The disposition of the proceeds of the bonds shall conform to the approved contract of contribution. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 4, 5, 6, 7, as amended.)

§ 51.170. Annual Tax by Contributor

(a) The contract for contribution may provide that instead of issuing bonds the contributor may levy, assess, and collect an annual tax in a specific sum. The levy or assessment is a lien on the property subject to the contributor's taxing power.

(b) The contributor shall collect the tax at its own expense and pay it annually to the district to which the contribution is to be made. The district shall hold the annual payment as a trust fund and annually apply it to the bonds issued by it to provide funds for the construction of the improvements to which the contribution is made.

(c) The contributor shall submit the contract of contribution to its electors for approval and for authority to levy and assess a sufficient tax to meet the annual payments fixed in the contract. The election for the approval of the contract and the authorized taxes for the fulfillment of the contract shall conform to appropriate law under which the contributing political subdivision was organized and authorized to create bonded indebtedness.

(d) Payment of the annual sums of contribution shall conform to the contract of contribution. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 8, 9, 10, 11, 12, as amended.)

§ 51.171. Contributions from Unappropriated or Available Funds of Contributor

(a) If the proposed contributor has an unappropriated fund or a fund which is not required for actual use even though otherwise appropriated, the fund may be withdrawn from the project which does not need it and may be applied to pay contributions to the cost of the improvements considered to be a benefit to the contributor but to be constructed by another agency or jointly by the contributor and another agency.

(b) The board of the contributing political subdivision may contract for contributions and contribute from an unappropriated or available fund without submitting the contract and contributions to a vote of the electors of the contributor. However, the contributions shall not be made if they impair the ability of the contributor to meet any outstanding obligation or to adequately and economically discharge the contributor's duty to its electorate or constituency. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 13, 14, 15, as amended.)

§ 51.172. Liability on Contracts of Acquired Irrigation System

If a district acquires an established irrigation system which has contracted to supply water to others and the holders of the contracts or the lands entitled to service of water are not within the district, the contracts and duties shall be performed by the district in the same manner and to the same extent that any other purchaser of the system would be bound. (39th Legis., G.L., Ch. 25, Sec. 50.)

§ 51.173. Authority to Lease Irrigation System Serving the District

(a) The board, by resolution, may lease all or part of any irrigation system serving all or part of the district, including distribution laterals, trunk or transmission canals, pumping plants, intakes, and all usual or necessary appurtenances. The board's resolution will specify the term of the lease, which may not be more than 40 years.

(b) The board may lease property located partly outside the boundaries of the district and may sell surplus water to other districts and to other consumers. (39th Legis., G.L., Ch. 25, Sec. 111(a), sen. 1, 6, as added.)

§ 51.174. Covenants and Agreements Included in Lease

(a) The lease shall expressly state that the sums payable under the terms of the lease and the lease itself shall not constitute an indebtedness or pledge of the general credit of the district within the meaning of any constitutional or statutory limitation of indebtedness. The lease shall contain a statement that payments due under it are not payable from any funds raised or to be raised by taxation.

(b) The lease may contain covenants and agreements which are not inconsistent with the provisions of this code which authorize the lease for:

- (1) the management and operation of the leased properties;
- (2) the imposition and collection of charges for water;
- (3) the disposition of the proceeds of charges;
- (4) the insurance, protection, and maintenance of the leased properties;
- (5) the creation of other obligations payable from the revenues derived from the operation of the leased properties;
- (6) the keeping of books and records by the district; and
- (7) other pertinent provisions which the board considers desirable to assure the payment of amounts due under the lease. (39th Legis., G.L., Ch. 25, Sec. 111(a), sen. 7, 8, as added.)

§ 51.175. Revenue for Payment of Lease Rental

(a) All money due the lessor under the lease shall be payable solely from the revenue derived by the district from the sale of water supplied through the leased system.

(b) The board shall set and collect charges for the water supplied through the leased properties to produce sufficient revenue at all times to allow for delinquencies and to pay promptly all rental payments becoming due under the terms of the lease. The board may agree to deposit this money in a separate fund as a first charge on the gross revenue received each year from sales of water, and which shall not be used for any other purpose.

(c) The board may agree in the lease to pay all expenses of operating and maintaining the leased properties from the fund provided by the board each year for the maintenance and operation expenses of the district so that the gross revenue from sale of water will be available exclusively for payment of rentals until the amount required for rentals each year is paid into the separate rental fund.

(d) If the board includes this agreement in the lease, the board shall provide for the payment of sums into the maintenance fund from sources other than the remaining portions of the gross revenue from the sale of water not required to pay rentals which are sufficient each year to pay all expenses of operating the district and maintaining and operating its properties and facilities, including the leased properties. (39th Legis., G.L., Ch. 25, Sec. 111(a), sen. 2, 3, 4, 5, as added.)

§ 51.176. Receiver for Leased Irrigation System

(a) If the district defaults in the payments due under a lease, the lessor may petition a court of competent jurisdiction to appoint a receiver for the leased properties.

(b) The receiver shall operate the properties and collect and distribute the revenue according to the terms of the lease and the direction of the court.

(c) The receiver has the same rights and powers as the board in its operation of the leased properties. (39th Legis., G.L., Ch. 25, Sec. 111(a), sen. 9, as added.)

§ 51.177. Joint Lease by Two or More Districts

The boards of two or more districts may adopt resolutions to enter into a joint lease under the provisions of Section 51.173 of this code. The

joint lease shall specify clearly the respective rights and liabilities of the districts and shall be subject to all the provisions of Sections 51.173-176 of this code. (39th Legis., G.L., Ch. 25, Sec. 111(a), sen. 10, as added.)

§ 51.178. Authority to Acquire Irrigation System Subject to Mortgage

A district may acquire by gift, grant, or purchase any part of an irrigation system serving the district which is subject to a mortgage or encumbrance. The mortgage or encumbrance shall not be assumed by the district and shall not be an indebtedness of the district but shall constitute solely a charge on the encumbered property and the revenue from it. (39th Legis., G.L., Ch. 25, Sec. 111(b), sen. 1, as added.)

§ 51.179. Revenue for Payment of Mortgage

(a) The board may determine conclusively by resolution whether the mortgage or encumbrance represents all or part of the cost of the acquired property and constitutes a purchase money lien on the property.

(b) The board may contract to use and pledge its revenue derived solely from the sale of water and services supplied through the acquired properties for the payment of a purchase money lien.

(c) The board also may use revenue from taxation or from the issuance and sale of bonds to pay all or part of the amount due under the encumbrance if a majority of the electors of the district voting at an election on this proposition approve its use. (39th Legis., G.L., Ch. 25, Sec. 111(b), sen. 2, 3, as added.)

§ 51.180. Election to Approve Revenue for Payment of Mortgage

(a) If tax and bond revenue is pledged to pay amount due under the encumbrance, the district must hold an election and receive the approval of the electors.

(b) An election to approve the use of tax and bond revenue shall be held in the same manner and with the same voters' qualifications as provided for elections on the issuance of the bonds of the district. (39th Legis., G.L., Ch. 25, Sec. 111(b), sen. 4, 5, as added.)

§ 51.181. Joint Acquisition of Mortgaged System by Two or More Districts

(a) Two or more districts jointly may acquire by gift, grant, or purchase any part of an irrigation system serving the districts subject to a mortgage or encumbrances in the same manner that a single district may acquire the system.

(b) In the proceedings authorizing the acquisition, the boards of the respective districts shall define clearly the respective rights, interest, and liability of the districts in the acquired property and in the mortgage or encumbrance. (39th Legis., G.L., Ch. 25, Sec. 111(b), sen. 6, as added.)

§ 51.182. Authority to Lease Facilities to Water Customers

(a) A district may lease to any person, firm, or corporation which is a bona fide water customer of the district any of its river pump stations, conveyance canals, off-channel reservoirs, reservoir pump stations, water mains, water treatment plants, or other facilities used in connection with them. The lease may include any of the district's land which is appropriate to the utilization of the leased facilities, including but not limited to land acquired by eminent domain.

(b) The board and the lessee shall agree on the form of the lease and its terms, conditions, provisions, and stipulations; however, the duration of the lease shall not be longer than the duration of the water contract between the district and the lessee under the primary term of the water contract and any renewal or extension of it.

(c) After a lease to a water customer is authorized by the board, the lease shall be executed by the president or vice president of the board and attested by the secretary. The lease is valid and effective without any other requirement or prerequisite by the district. (55th Legis., 2nd C.S., Ch. 17, Sec. 1, 2, 3.)

§ 51.183. Expense of Relocation of Facilities

If a district created after August 27, 1961, requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties, or facilities, or pipelines in the exercise of the power of eminent domain or police power or any other power, all the relocation, raising, lowering, rerouting, or changes in grade or alteration of construction shall be the sole expense of the district. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility. This section does not apply to projects under construction or financed or for which bonds were voted and approved by a district on August 27, 1961, unless the acts of the district authorizing the construction or financing contained the provisions of this section. (39th Legis., G.L., Ch. 25, Sec. 123a, as added.)

§ 51.184. Preference in Use of Water

(a) The board may award the use of district water in the following order of preference and superiority:

- (1) domestic and municipal use;
- (2) industrial use, other than the development of hydroelectric power;
- (3) irrigation;
- (4) development of hydroelectric power;
- (5) pleasure and recreation.

(b) The board may withdraw water from an inferior use and appropriate the water to a superior use when required for the welfare of the district.

(c) The board must use the condemnation procedures in Subchapter F of this chapter for a withdrawal or diversion of the use of water which affects a vested right. (39th Legis., G.L., Ch. 25, Sec. 4a, as added.)

§ 51.185. Suit to Protect Water Rights

The board may institute and maintain any suit or suits to protect the water supply or other rights of the district, to prevent any unlawful interference with the water supply or other rights of the district, or to prevent a diversion of its water supply by others. (39th Legis., G.L., Ch. 25, Sec. 137, sen. 1.)

§ 51.186. Transfer of Water Right

If there is land in a district which has a water right from a source of supply acquired by the district but the land is difficult or impracticable to irrigate from that source of supply, the district may allow transfer of the water right to other land which is adjacent to the district. The adjacent land may be admitted to the district with the same right of water service as the land from which the water was transferred. (39th Legis., G.L., Ch. 25, Sec. 77.)

§ 51.187. Selling Waterpower Privileges

(a) The district may enter into a contract to sell waterpower privileges if power can be generated from water flowing from the district's reservoirs or within its canal system.

(b) The sale of waterpower privileges may not interfere with the district's obligation to furnish an adequate supply of water for the purpose for which the district was organized and for municipal purposes in districts which furnish water for municipal purposes. (39th Legis., G.L., Ch. 25, Sec. 138, sen. 2, as amended.)

§ 51.188. Selling Surplus Water

The district may sell any surplus district water for use in irrigation or for domestic or commercial uses to any person who owns or uses land in the vicinity of the district or to other districts which include land in the same vicinity. (39th Legis., G.L., Ch. 25, Sec. 138, sen. 1 (part), as amended.)

§ 51.189. Pumping Water to another District

If the board considers it advisable, it may contract to pump for or supply another district any water in which the other district has a right. The board shall provide the terms of the contract. (39th Legis., G.L., Ch. 25, Sec. 138, sen. 1 (part), as amended.)

§ 51.190. Obtaining Topographic Maps and Data

The Texas Water Development Board shall furnish to a district topographic maps and data concerning all projects for the control of floods undertaken by the district and all projects for the storage of water or creation of reservoirs undertaken by the district. (39th Legis., G.L., Ch. 25, Sec. 142.)

§ 51.191. Sale of Property not Required for District's Plans

The board may sell at a public or private sale any property or land owned by the district which is not required to carry out the plans of the district. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 5 (part), as amended.)

§ 51.192. Notice of Sale of Property not Required for District's Plans

Before either a public or a private sale of property not required for the district's plans, the district shall give notice of the intent to sell by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 8, as amended.)

§ 51.193. Use of Proceeds from Sale of Property not Required for District's Plans

(a) If the district has outstanding bonds, the proceeds of the sale of property not required for the district's plans shall be applied to retire outstanding emergency warrants, if any, issued to protect ultimate liability of the district in condemnation proceedings as provided in this chapter and the remainder, if any, to be placed in the interest and sinking fund account provided for the retirement of outstanding bonds of the district.

(b) If the district does not have money available from other sources to complete the plans for which its construction work and its bonds were authorized, the board may use the proceeds derived from the sale of the property or land not required to carry out the plans of the district to complete the work included in its plans for improvements to the degree required, and any excess of the proceeds shall be applied as provided in Subdivisions (1) and (2) of this section. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 5 (part), 6, as amended.)

§ 51.194. Sale of Property not Acquired to Carry Out the Plans of the District

The board may sell property bid in by it at any sale under foreclosure of its tax lien or of its lien for charges or assessments, or any property

acquired by it other than for the purpose of carrying out the plans of the district, without formally determining that the property is not required to carry out the plans of the district, without giving notice of the intent of the district to sell the property, and without applying the proceeds of the sale as provided in Section 51.192 of this code. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 7, as added.)

[Sections 51.195 to 51.220 reserved for expansion]

SUBCHAPTER E. ELECTION PROVISIONS

Section 51.221. Election Procedure

(a) The board shall provide for holding elections and giving notice and shall appoint officers to hold the election at the time the election is ordered.

(b) The officers for the election shall include a presiding judge and an assistant judge and two clerks. More clerks may be appointed if necessary.

(c) The board shall name the polling places, and if more than one polling place is necessary, the board shall divide the district into election precincts. The polling places may be changed from time to time as required. (39th Legis., G.L., Ch. 25, Sec. 27.)

§ 51.222. Notice of Election

(a) Notice of an election shall be given by order of the board.

(b) The notice shall be signed by the president and secretary of the board and shall state:

- (1) the purpose of the election;
- (2) the propositions and officers to be voted on;
- (3) the polling places; and
- (4) the names of the election officers.

(c) The notice shall be published once a week for three consecutive weeks in a newspaper with general circulation published in the county or counties in which the district is located. If no newspapers are published in these counties, the notice shall be published in the county nearest to the district. The first publication shall be not less than 21 days nor more than 35 days before the day of the election. (39th Legis., G.L., Ch. 25, Sec. 28.)

§ 51.223. Preparation and Delivery of Returns

(a) The election officers shall make and deliver the election returns in triplicate. One copy shall be retained by the election judge; one copy shall be delivered to the president of the board, and one copy shall be delivered to the secretary of the board.

(b) The election officers shall give to the newspapers and to other persons requesting them the returns of the election in that box at the time the returns are made.

(c) The ballot boxes and other election records and supplies shall be delivered to the secretary of the board at the district office.

(d) The ballot boxes containing the voted or mutilated ballots shall be preserved for one year subject to the order of any court in which a contest of the election is filed. (39th Legis., G.L., Ch. 25, Sec. 29, sen. 1, 2, 3, 4.)

§ 51.224. Canvass of Returns

The board shall meet and canvass the returns of the election not less than five nor more than seven days after the day of the election. If the

returns cannot be canvassed within seven days after the day of the election, they shall be canvassed as soon as possible after that time. (39th Legis., G.L., Ch. 25, Sec. 29, sen. 5.)

[Sections 51.225 to 51.230 reserved for expansion]

SUBCHAPTER F. EMINENT DOMAIN

Section 51.231. Power of Eminent Domain

(a) The district may exercise the power of eminent domain to acquire all land, materials, borrow and waste ground, easements, rights-of-way, and everything considered necessary, incident, or helpful to accomplish by any practicable mechanical means any one or more of the purposes of the district. Property condemned by the district also may include property considered necessary for the extension or enlargement of the plant, works, improvements, or service of the district.

(b) The district may condemn either the fee simple title or an easement, and the land subject to condemnation may be public or private and may be located inside or outside the district. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 2 (part), as amended.)

§ 51.232. Restriction on Power of Eminent Domain

Except to serve a public need superior to the use to which the property is being devoted, nothing in this subchapter shall authorize a district to condemn any land, property, easement, or facility owned, held, or used by another person when the property is necessary for the person to accomplish any of the purposes of this chapter. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 99, as amended.)

§ 51.233. Choice of Proceedings

Subject to the provisions of this chapter, the board may elect to use condemnation proceedings under the provisions of Title 52, Revised Civil Statutes of Texas, 1925, or the board, by its order for condemnation, may elect to proceed in the manner provided in Sections 51.234-51.273 of this code. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 1 (part), 41, 42, as amended.)

§ 51.234. Petition for Appointment of Tribunal

(a) Any time after a district has adopted a plan for improvements which enables it to determine definitely which easements or fee simple title to property should be acquired, the board may petition the district judge of a judicial district in which part of the district is located, requesting the appointment of a tribunal of three persons to collectively exercise judicial functions within the authority of this subchapter.

(b) If the district judge having jurisdiction is disqualified because of interest, is absent from the district, or does not act, the petition may be presented to a judge for any judicial district adjacent to the district of the original presentation.

(c) The petition may be presented in term time or in vacation and shall be entered on the docket as provided for other causes. The court's order shall be entered in the minutes of the court.

(d) The petition shall state:

- (1) the necessity for condemnation;
- (2) the name of the county or counties in which the property to be condemned is located; and
- (3) the name and address of each person known to have title to or an interest in any property proposed for condemnation, or that the

address is not known and cannot be ascertained by reasonable diligence. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 1 (part), 2, 4, 5, 6, 7, as amended.)

§ 51.235. Qualifications for Appointment to Tribunal

(a) The board, in the petition, shall nominate for appointment to the tribunal three persons who shall be:

- (1) of lawful age;
- (2) qualified electors of the state;
- (3) disinterested, with good moral character; and
- (4) unrelated knowingly within the third degree of consanguinity or affinity to a member of the board making the nomination, the judge having jurisdiction, or to any person known to be asserting title to or an interest in any property proposed to be condemned.

(b) One nominee shall be a lawyer learned in the law of eminent domain and the exercise of rights of eminent domain and the other two nominees shall be persons with knowledge of the value and uses of land, injuries to land, and benefits to land to be affected by the proposed condemnation. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 3, as amended.)

§ 51.236. Hearing on Petition for Appointment of Tribunal

The district judge having jurisdiction shall set a hearing on the petition not less than 10 days nor more than 15 days after the petition is presented to him. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 9 (part), as amended.)

§ 51.237. Notice of Hearing on Petition for Appointment of Tribunal

(a) Notice of the hearing on the petition shall be written or printed and shall give the time, place, and object of the hearing and shall state that all interested persons will be allowed to make objection to any person nominated for appointment in the petition.

(b) The clerk of the court shall send a copy of the notice by registered mail to each owner whose name and address is given in the petition at least five days before the day set for the hearing on the petition. The notice shall be published one time at least five days before the day set for the hearing on the petition in one or more newspapers with general circulation in the area to be affected by the proposed condemnation.

(c) The publication shall have the effect of actual service on all interested persons, whether known or unknown, and whether named or not named in the petition. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 8, 9 (part), as amended.)

§ 51.238. Appointment of Tribunal

(a) At the time and place for the hearing on the petition, the judge shall hear protests from all interested persons.

(b) The judge may refuse to appoint any or all of the persons nominated in the petition if good cause is shown and may appoint other persons considered by him to be qualified under the provisions of this subchapter.

(c) If good cause for refusal is not established, the judge shall appoint the persons nominated in the petition. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 10, 11 (part), as amended.)

§ 51.239. Appointment Final

The proceeding shall be terminated on the appointment of the tribunal, and no appeal from the action of the court can be maintained. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 11 (part), as amended.)

§ 51.240. Costs of Proceeding

The costs of the proceeding to appoint the tribunal shall be paid by the district proposing condemnation. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 12, as amended.)

§ 51.241. Qualifying as Member

Within 10 days after appointment or as soon after that time as practicable, each person appointed shall file with the secretary of the condemning district a written oath to be substantially as follows: "I swear (or affirm) that I, as a member of the tribunal to hear and determine matters incident to the condemnation proceedings instituted by (insert name of the district) will fairly, impartially, and without interest, prejudice, or favor, discharge my duties as a member of the tribunal appointed by the judge of the district court for the _____ District of Texas." (39th Legis., G.L., Ch. 25, Sec. 126, sen. 15, as amended.)

§ 51.242. Compensation of Tribunal

The district shall pay each member of the tribunal reasonable fees of not more than \$25 a day for each day he serves together with his actual expense as approved. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 46 (part), as amended.)

§ 51.243. Filing of Proposed Report with Board

The proposed report shall be delivered to the secretary of the board and shall become a permanent record of the district and be open to examination by all interested persons. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 49, as amended.)

§ 51.244. Appointment of Replacement on Tribunal

(a) If a member of the tribunal fails or refuses to act or becomes disqualified to act, he may be removed by petition to the court.

(b) A qualified substitute may be nominated and appointed to serve in his place in the manner provided for the original appointment, except that citation by publication is not required.

(c) The written notice shall be mailed instantly, and the hearing may be held on the third day after notice is mailed or as soon after the third day as the court may be able to act on the petition.

(d) If a member of the tribunal is disqualified to act regarding some parcel of property because of interest or relationship, a substitute may be appointed to serve only in the matter to which the disqualification exists. In that case, notice shall be given only to the person interested in the property to which the disqualification is related. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 13, 14, as amended.)

§ 51.245. Authority of Tribunal

(a) When qualified, the members collectively shall be a judicial tribunal within the meaning and intent of Article V, Section 1, of the Texas Constitution.

(b) The tribunal shall have the duties and powers which are conferred on county courts and county judges for procedure and for effecting the administration of justice needed to accomplish the purpose of this subchapter.

(c) The tribunal shall have jurisdiction and power to do and decree all things which this subchapter authorizes the tribunal to do. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 16, 32, as amended.)

§ 51.246. Organization of Tribunal

(a) The tribunal may organize to accomplish its duties as it considers best, except that two members are required for a quorum and the concurrence of at least two members is necessary to decide any matter.

(b) The lawyer member of the tribunal shall be the advisor in matters of law.

(c) The clerk of the district shall furnish the service of a competent person to serve the tribunal as clerk.

(d) Orderly minutes of the proceedings shall be kept and shall be signed by all participating members and shall be a public record.

(e) The tribunal shall have a seal bearing the name of the district and the words "Tribunal for Condemnation."

(f) The proceedings shall be as free from technicality and as summary in character as will accomplish substantial justice. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 17, 19, 20, 21, 22, as amended.)

§ 51.247. Secretary of Tribunal

(a) The secretary of the board shall serve as secretary of the tribunal or the secretary may appoint another well-qualified person to serve as secretary of the tribunal, subject to approval by the tribunal.

(b) The person acting as secretary shall attest all records and reports as "Secretary."

(c) The person appointed to serve shall take an oath that he will keep and preserve a true written record of all material proceedings, findings, appraisements, and assessments concerning the duties of the tribunal.

(d) The secretary shall furnish the tribunal information and assistance within his power and necessary to the performance of its duties. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 29, 30, 31, as amended.)

§ 51.248. Order of Condemnation

(a) Any time after the adoption and approval of plans for improvements or the enlargement, extension, or alteration of improvements, as required by Section 51.234(a) of this code, the board may order the condemnation of any land or other property. The order of condemnation shall be recorded in the minutes.

(b) The board may elect in the order to condemn the fee simple title to the land or to condemn only an easement. Part of a tract of land may be condemned in fee simple and part placed under an easement. The order of condemnation may specify within itself or by reference to exhibits, maps, or plats which land shall be placed under condemnation in fee simple, which land shall be placed under an easement, and if appropriate, identify any other property which is required to be taken.

(c) If it can be given by the exercise of reasonable diligence, the order of condemnation shall state the name and address of any owner or owners of each separate tract of land and appropriately relate those names and addresses to the property to which the ownership exists.

(d) The order shall contain a general statement showing the necessity for the taking but shall not be held invalid because of fault in the statement.

(e) The order may be amended in any and every particular at any time during the proceedings established in this subchapter if the person affected by the amendment or his agent or attorney is given actual notice of the amendment before any action is taken under it.

(f) The order for condemnation and all its exhibits shall be prepared in duplicate. One copy shall be delivered to the clerk of the tribunal for condemnation and filed by him as a record of the tribunal. The order shall constitute a petition for condemnation. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 23, 24, 25, 26, 27, 28, as amended.)

§ 51.249. Hearing and Order of Board

(a) The board shall receive, hear, and determine protests or recommendations relating to property to be condemned in the manner provided in Section 51.095 of this code.

(b) The findings of the board, after the advice of the district engineer relating to the necessity or advisability of acquiring any part of the property to be condemned, in fee or under an easement, for any purpose connected with or incident to the full completion and practical operation of the improvements to be provided under the district's plans for improvements, shall be final and not subject to judicial review except for fraud, palpable error, or an arbitrary act which would constitute actual fraud. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 35, as amended.)

§ 51.250. Furnishing Board's Findings to Tribunal

The board's determination on the necessity or advisability of acquiring property shall be made before the tribunal views property subject to condemnation, as provided in this subchapter, and the board's specific identifying conclusions shall be furnished to the tribunal. The record shall be accompanied by a designation of all property, easements, or agreements for liquidated damage which have been placed under voluntary option to or adjustment with the district. The tribunal shall omit consideration or any matter already adjusted. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 36, 37, 38, as amended.)

§ 51.251. Discharge of Tribunal's Duties

(a) The tribunal shall begin the discharge of its duties within 30 days after qualifying and organizing.

(b) The tribunal may at all times require the presence and necessary assistance of the district's engineers and attorneys to enable it to perform its duties intelligently. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 33, as amended.)

§ 51.252. Tribunal to View Property

The tribunal shall view all public and private land or other property which has been ordered condemned, whether located inside or outside the district. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 34, as amended.)

§ 51.253. Assessing Values and Damages on Affected Lands

(a) The tribunal shall appraise and assess the values of all affected land, easements, or property rights inside and outside the district and shall specifically appraise and assess the damages to justly compensate and liquidate all injuries to be done to each item of property affected.

(b) The tribunal shall be governed by the provisions of Article 3265, Revised Civil Statutes of Texas, 1925, in assessing the value of property sought to be condemned, computing damages, and determining compensating benefits. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 39, 40, as amended.)

§ 51.254. Omitted Assessment

If the tribunal omits the assessment of damages to any specific parcel of property, either inside or outside the district, it shall be deemed an affirmative finding that no damage will be done to the omitted parcel of property. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 43, as amended.)

§ 51.255. Tribunal's Proposed Report of Findings

(a) The tribunal shall prepare a specific and detailed proposed report of its findings which shows the owner of each parcel of property examined and concerning which any appraisal, award, finding, or assess-

ment is made, together with a description of the property which identifies and relates it to the appropriate appraisal, award, finding, or assessment.

- (b) The report shall separate and distinguish:
 - (1) the value of property to be taken by the district in fee simple;
 - (2) the amount of compensation for an easement to be taken by the district;
 - (3) the amount required to justly compensate and liquidate the injury or damage to be done to property which is not condemned and taken in fee simple or placed under an easement; and
 - (4) when appropriate, specify the parts of a parcel of property falling within more than one of the classifications and allocate to each portion its appropriate classified assessments.

(c) The report shall be prepared in triplicate and shall be approved and signed by at least two members of the tribunal.

(d) The proposed report shall show the number of days each member has actually served and the actual expenses necessarily incurred by each in serving the district. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 44, 45, 46 (part), as amended.)

§ 51.256. Hearing Objections to Tribunal Report

(a) The tribunal, in its proposed report, shall fix times and places to hear objections to its findings as reported. The tribunal shall consider the prevailing convenience of the property owners in fixing a place for hearing objections.

(b) Each hearing concerning land situated in a given county shall be held in the county in which the land proposed to be condemned is located and in a part of the county which will be most convenient to the majority of the landowners. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 47, 48, 51, as amended.)

§ 51.257. Published Notice of Hearing on Tribunal Report

(a) The secretary of the board shall promptly publish a notice of the filing of the report once a week for two consecutive weeks in one or more newspapers with general circulation in the district and in each of the counties in which affected property may be located. The first publication must appear at least 14 days before the day of the hearing.

(b) One notice may specify a hearing day and place for one county only and there may be notice for different days and places of hearing for other counties.

(c) The published notice shall be in substantially the following form:

LEGAL NOTICE

To the owners of, and all other persons having an interest in land or other property lying in _____ County, Texas: Take notice that a copy of the adopted plans for improvements by _____ County Water Control and Improvement District Number _____, are now open to inspection by anyone interested in them at the district's office at _____, Texas. These plans, contour maps and specifications will make manifest how your property will be affected. The tribunal previously appointed have appraised and assessed property values, benefits, and damages accruing to the affected land, and other property, both inside and outside the district, which will be condemned and taken, or subjected to an easement, or damaged, or otherwise affected by carrying out the plans for improvements to be provided by the district. The recorded report of the tribunal is open to inspection by any interested person at _____, in _____, Texas. Any interested person may make specific written objections to the report in whole or in part, and any person claiming damage to his property inside or outside the dis-

trict, for which no damages have been assessed in the report are required to file an itemized claim for the damages in the district office on or before the _____ day of _____, _____, and all persons failing to make such objection or claim for damages will be deemed to have waived the same. Further, take notice that the tribunal of appraisal will meet on the _____ day of _____, _____, at _____, Texas, for the purpose of hearing and acting on objections to their proposed decree, and to hear, consider, and determine claims for compensation and damages.

Secretary

(39th Legis., G.L., Ch. 25, Sec. 126, sen. 50, 52, 53, 54, 55, 56, as amended.)

§ 51.258. Written Notice of Hearing on Tribunal Report

(a) The secretary of the board shall mail a written notice to each person whose land or other property is listed in the proposed report of the tribunal if the post-office address is known. The notice shall be mailed at least 10 days before the day for any given hearing.

(b) The notice shall state:

(1) the time and place of the meeting which the person is expected to attend;

(2) that the report of the tribunal to assess burdens on, values of, benefits to, and damages to the land and other property which will be affected by the district's plans for improvements has been filed in the district office and giving the location of the office;

(3) that the advised person may examine the report, together with the district's plans, contour maps, and specifications, and file written specific objections to any part of the report; and

(4) that the tribunal will meet on the day and at the place named for the purpose of hearing the notified person and acting on objections to the report.

(c) Instead of mailing notice, personal notice may be executed and return made under oath by any person appointed by the secretary of the board in the same manner and on the same persons, officers, or agents as provided for service of citations in suits pending in the district courts. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 57, 58, as amended.)

§ 51.259. Certification of Notice by Secretary

The secretary of the board on the first day of the hearing shall file in the district office the original notice as published, with his affidavit showing the manner of publication and the days on which and the newspaper or newspapers in which the notice was published and shall certify the names and addresses of all persons to whom notices were mailed or on whom actual service was made. The secretary also shall show affirmatively that personal service was executed or timely notice mailed to or served on each landowner whose address was known or could be known by the exercise of reasonable diligence. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 59, as amended.)

§ 51.260. Filing Exceptions to Report of Tribunal

At or before the hearing on the report of the tribunal, any owner of land or other property affected by the report, or by the district's plans for improvements, may file exceptions to any part of the report, either in person or by an attorney or other agent. Any person whose property has been assessed no damages who believes that his land or other property will be damaged by carrying out the plans for improvements may file a claim for the damages with the district. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 60 (part), as amended.)

§ 51.261. Hearing Procedure

(a) At the time and place named in the notice, the tribunal shall hear evidence and determine all objections and claims for damages and shall make changes and modifications from time to time which will cause its proposed decree to conform to the justice of each case under the facts presented.

(b) The tribunal may grant in whole or in part, or may overrule, any claim for compensation or damage or any other exception to its proposed report.

(c) Until all persons desiring a hearing have been heard, the hearing may be recessed from one day or place to other days and places, to be announced in open meeting. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 60 (part), 61, as amended.)

§ 51.262. Final Decree

(a) The tribunal shall determine finally all matters presented concerning its proposed report and shall enter its final decree concerning the proposed report to the extent that it is confirmed and shall approve and confirm the proposed report as modified or changed to the extent that it is modified or changed.

(b) The tribunal in its decree shall condemn all the land, easements, rights-of-way, or other property inside or outside the district which is considered by the board to be needed and is designated to make effectual and practicable the construction and operation of all works, improvements, and services which the district plans to provide ultimately and to accomplish any purpose designated in this subchapter. The tribunal shall condemn either the fee simple title or an easement as elected and designated by the board.

(c) The tribunal shall judge and award all compensation for property to be taken or placed under easement and shall award all damages, if any are allowed under the law. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 62, 64, 65, as amended.)

§ 51.263. Filing Final Decree

A certified copy of the final decree of condemnation concerning the property in each county shall be filed with the county clerk for record, and the record shall be notice to all persons of the contents of the decree. The original decree shall be a permanent record of the district and also shall constitute notice. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 66, 67, as amended.)

§ 51.264. Costs

The tribunal may apportion and adjudge costs incurred for any hearing in a manner of allocation which is considered equitable. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 63, as amended.)

§ 51.265. Authority to Appeal

(a) The final decree of the tribunal concerning any matter is subject to appeal or judicial review only in the manner specified in Sections 51.667-51.278 of this code.¹

(b) The only questions which may be considered on appeal are whether or not just compensation was allowed and whether or not any damages are lawfully recoverable.

(c) The board in the name and behalf of the district or any person having an interest in the decree of the appraisers may appeal from the decree assessing or refusing to assess damages or fixing compensation for the value of property taken or subjected to an easement.

(d) The claimant shall be considered the plaintiff and the district shall be considered the defendant except in cases in which the district has

filed exceptions to the report of the district's referees of appraisalment. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 68, 89, as amended.)

¹ So in enrolled bill.

§ 51.266. Jurisdiction of Appeal

(a) The appeal shall be in the district court having jurisdiction over the area in which condemned land is located, either in whole or in part.

(b) The courts of jurisdiction shall be the number required to provide appeals in the jurisdiction within which any given land is situated.

(c) The district courts shall have jurisdiction regardless of the amount or the number of the separate claims involved. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 69, 70, 72, as amended.)

§ 51.267. Notice of Appeal

Notice of appeal shall be given within two days after the entry of the final decree by the tribunal by filing written notice of the appeal with the secretary of the board. The written notice shall be a simple statement that the undersigned gives notice of appeal from the decree entered on the date stated and specifying the exact claims sought to be established by the appeal. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 73, 74 (part), as amended.)

§ 51.268. Appeal Bond

(a) The appellant shall file an appeal bond with two or more good and sufficient sureties with the clerk of the court in which the appeal is being prosecuted within five days after the entry of the decree being appealed. The bond shall be in an amount double the costs, if any, already allocated to the appellant, plus double the amount estimated by the clerk to be incurred on the appeal.

(b) The bond shall be payable to the clerk of the court in which the appeal is being prosecuted and shall be subject to his approval as to sufficiency.

(c) The bond shall be conditioned on the appellant prosecuting his appeal with effect and paying all the costs awarded against him by the court.

(d) Any district, including a district established to be a "Municipal District," appealing a decree shall not be required to give a bond for appeal or a bond for costs. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 74 (part), 75, 76, 82, 95, as amended; and 42nd Legis., 3rd C.S., Ch. 23, Sec. 1.)

§ 51.269. Period for Perfecting Appeal

Unless an appeal is perfected as provided in this subchapter within seven days after the day the final decree of the tribunal is rendered, the decree shall be final and conclusive as to any given matter not appealed from and there shall be no extension of time for the filing of an appeal bond. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 77, as amended.)

§ 51.270. Transcript and Pleadings

Within 12 days after the entry of a final decree of condemnation which has been appealed, the secretary of the board shall file with the clerk of the court a certified transcript of the final decree of condemnation which shows the facts concerning the items of decision appealed from, together with the original notices of appeal or a certificate showing the names and addresses of all persons who gave notice of appeal, and which includes the stated grounds on which each of the appeals has been predicated. It shall not be necessary to file any additional pleadings in the court. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 78, as amended.)

§ 51.271. Docketing Appeal

All appeals for each given county shall constitute one proceeding on the docket of the district court. The docket shall recite the name of each of the parties to the proceeding and shall be indexed accordingly. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 71, 79, 80, as amended.)

§ 51.272. Severance of Appeal

The court, on motion, may grant or refuse to grant a severance of any separate claim arising from distinction as to ownership. (39th Legis., G. L., Ch. 25, Sec. 126, sen. 81, as amended.)

§ 51.273. Procedure for Trial

(a) When an appeal is filed, the court shall set the appeal for a hearing and the appeal shall be tried de novo by the court. The court shall grant any interested party the right to trial by jury on request.

(b) An incomplete hearing may be recessed from one day to another day or may be continued to the next term or succeeding terms of the court.

(c) All proceedings before the court and notices of the hearings shall be in accordance with the provisions of the Texas Rules of Civil Procedure as applied to an ordinary civil case. The admission of evidence and the fixing of awards, so far as applicable and not inconsistent with the provisions of this subchapter, shall be governed by the law and rules of procedure relating to trials and awards in damage suits.

(d) The hearing shall be given precedence by the court over all civil causes on the docket which do not involve public welfare, shall be concluded with all reasonable dispatch, and shall be as summary in character as is consistent with full and complete justice. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 83, 84, 85, 90, as amended.)

§ 51.274. Court's Decree

(a) The court shall hear evidence proper to the consideration of any filed exception. After hearing all evidence and argument offered, the court in term time shall enter its final decree, either approving the decree of the tribunal, modifying the decree, or in any manner changing the decree so that in the court's judgment the decree will conform to the justice of each specific case.

(b) Except as otherwise provided in this subchapter, the court's decree shall conform to the provisions of Title 52, Revised Civil Statutes of Texas, 1925. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 86, 87, 88, as amended.)

§ 51.275. Appeal from Court's Decree

The judgment of the district court may be appealed as in civil cases, and each appeal shall constitute a separate cause on the docket of the court of civil appeals. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 91, as amended.)

§ 51.276. Writ of Possession

The appeal from the decree of the tribunal to condemn shall not delay possession of the condemned property or prosecution of the work, but a writ of possession shall not be issued until a special deposit has been made and certified to the clerk of the court as provided in Section 51.278. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 92 (part), as amended; and 42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 5.)

§ 51.277. Reserve Fund Pending Appeal

(a) The district shall set apart in its depository out of the construction fund an amount of money not less than double the amount of the total

award made by the tribunal, plus an additional amount which the board considers sufficient to pay the costs then incurred and the costs which may be incurred on appeal. The amount set apart shall be ascertained on the day on which the writ of possession is sought and must actually be available to the condemnor in lawful money of the United States. The fund must remain in the depository until the final adjudication of the condemnation and must be applied to the payment of awards and costs and shall not be used for any other purpose. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 92 (part), as amended; and 42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 1, 2 (part).)

(b) In case of evident abuse of discretion by the board, the judge of the court, on motion by an aggrieved appellant, may require the board to increase the reserve fund to an amount which the judge considers adequate to discharge final awards. The board must comply with the increase of the reserve fund before it shall be authorized to take possession of any condemned property or to cause damage to any property. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 94, as amended.)

(c) The record and the conditions of the deposit shall be acknowledged in writing by the depository, and the certificate of deposit shall be filed with the clerk of the court in which an appeal is pending as part of the record in the condemnation proceeding. The clerk of the court shall certify his genuine official signature or those of his qualified deputies to the depository, and the depository may not pay vouchers drawn on the special fund except on written approval of the judge, the clerk of the court, and the condemnee. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 93, as amended; and 42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 3, 4.)

(d) A condemnee who has appealed a decree may elect to receive money from the designated fund in satisfaction of his demand at any time before the final adjudication. When the condemnee elects to receive the amount of the award in satisfaction of his demand before final judgment or when the judgment in condemnation becomes final, the clerk of the court and the depository shall pay instantly to the condemnee the sum of the deposit due to the condemnee, other than that to cover costs. The payment may be with or without the consent of the condemnor. (42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 2 (part), 6.)

(e) Any officer or employee of the condemnor, any officer or employee of the depository of the condemnor, or the clerk of the court or his deputy who knowingly permits any part of the special fund to be paid out for any purpose or in any manner except as provided in this section shall be guilty of a felony. On conviction, he may be fined in any sum not to exceed \$5,000 or imprisoned in the penitentiary for a term not to exceed three years or both. (42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 7.)

(f) The sureties on the bond of the miscreant or the bond or security of the offending depository shall restore the misapplied or diverted deposit, provided the required sum, together with other lawful charges against the bond, does not exceed the penal sum of the bond or the security held instead of sureties. (42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 8.)

§ 51.278. Vesting Title

On compliance with the provisions of this subchapter, the title to all land, easements, rights-of-way, or other property condemned shall vest in the district after payment or provision for payment of compensation. The district is entitled to immediate possession of the condemned property or rights. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 96, as amended.)

§ 51.279. Claim Barred

A person owning or having an interest in property affected by the district's plans for improvements and service or its condemnation proceed-

ings who has failed to file claim or objection or who has failed to appeal from an adverse ruling by the tribunal on any claim or objection as provided in this subchapter shall not claim from the district, its officers, contractors, agents, or employees any compensation for property or damage to property other than that which already has been awarded by the tribunal. This provision shall not apply to claims which are not incidents of lawful condemnation, construction, and operation. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 97, 98, as amended.)

[Sections 51.280 to 51.300 reserved for expansion]

SUBCHAPTER G. WATER CHARGES AND ASSESSMENTS

Section 51.301. Statement Estimating Water Requirements and Payment of Charge

(a) Each person who desires to receive water at any time during the year shall furnish the secretary of the board a written statement of the acreage he intends to irrigate and the different crops he intends to plant with the acreage of each crop.

(b) At the time the acreage estimate is furnished to the secretary, each person applying for water shall pay the portion of the water charge or assessment set by the board.

(c) If a person does not furnish the statement of estimated acreage or does not pay the part of the water charge or assessment set by the board before the date for fixing the assessment, the district is not obligated to furnish water to that person during that year. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 1, 2.)

§ 51.302. Contracts with Person Using Water

(a) The board may require each person who desires to use water during the year to enter into a contract with the district which states the acreage to be watered, the crops to be planted, the amount to be paid for the water, and the terms of payment.

(b) If a person irrigates more land than his contract specifies, he shall pay for the additional service.

(c) The directors also may require a person using water to execute a negotiable note or notes for all or part of the amount owed under the contract.

(d) The contract is not a waiver of the lien given to the district under Section 51.309 of this code against the crops of a person using water for the service furnished to him. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 8, 9, 10.)

§ 51.303. Authority to Determine Rules and Regulations

The board may adopt, alter, and rescind rules, regulations, and standing and temporary orders which do not conflict with the provisions of this subchapter and which govern:

- (1) methods, terms, and conditions of water service;
- (2) applications for water;
- (3) assessments for maintenance and operation;
- (4) payment and the enforcement of payment of the assessments;
- (5) furnishing water to persons who did not apply for it before the date of assessment; and
- (6) furnishing water to persons who wish to take water for irrigation in excess of their original applications or for use on land not covered by their original applications. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 7.)

§ 51.304. Board's Estimate of Maintenance and Operating Expenses

The board, on or as soon as practicable after a date fixed by standing order of the board, shall estimate the expenses of maintaining and operating the irrigation system for the next 12 months. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 3.)

§ 51.305. Distribution of Assessment

(a) Not less than one-third nor more than two-thirds of the estimated maintenance and operating expenses shall be paid by assessment against all land in the district to which the district can furnish water through its irrigation system or through an extension of its irrigation system.

(b) The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated. The board shall determine from year to year the proportionate amount of the expenses which will be borne by water users.

(c) The remainder of the estimated expenses shall be paid by assessments against persons in the district who use or who make application to use water. The board shall prorate the remainder as equitably as possible among the applicants for water and may consider the acreage each applicant will plant, the crop he will grow, and the amount of water per acre he will use. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 4, 5.) Subsec. (c) amended by Acts 1971, 62nd Leg., p. 1770, ch. 518, § 12, eff. May 31, 1971.

§ 51.306. Notice of Assessments

(a) Public notice of all assessments shall be given by posting printed notices of the assessment in at least three public places in the district.

(b) Notice shall be mailed to each landowner at the address which the landowner shall furnish to the board.

(c) The notice shall be posted in a public place and mailed to each landowner five days before the assessment is due, and notice of special assessments shall be given within 10 days after the assessment is levied. (39th Legis., G.L., Ch. 25, Sec. 110, sen. 2, 3.)

§ 51.307. Payment of Assessments

(a) All assessments shall be paid in installments at the times fixed by the board.

(b) If a crop for which water was furnished by the district is harvested before the due date of any installment payment, the entire unpaid assessment becomes due at once and shall be paid within 10 days after the crop is harvested and before the crop is removed from the county or counties in which it was grown. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 6.)

§ 51.308. Collection of Assessments by Tax Assessor and Collector

(a) Under the direction of the board, the assessor and collector, or other person designated by the board, shall collect all assessments for maintenance and operating expenses.

(b) The assessor and collector shall execute a bond in an amount determined by the board, conditioned on the faithful performance of his duties and accounting for all money collected.

(c) The assessor and collector shall keep an account of all money collected and shall deposit the money as collected in the district depository. He shall file with the secretary of the board a statement of all money collected once each week.

(d) The assessor and collector shall use a duplicate receipt book, give a receipt for each collection made, and retain in the book a copy of each receipt, which shall be kept as a record of the district. (39th Legis., G.L., Ch. 25, Sec. 111.)

§ 51.309. Lien against Crops

The district shall have a first lien, superior to all other liens, against all crops grown on each tract of land in the district to secure the payment of the assessment, interest, and collection or attorney's fees. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 12 (part), 13 (part).)

§ 51.310. List of Delinquent Assessments

Within 10 days after any assessment is due, the board shall post in a public place in the district a list of all persons who are delinquent in paying their assessments and shall keep posted a correct list of all persons who are delinquent in paying assessments. If a person who owes an assessment has executed a note and contract as provided in Section 51.302 of this code, he shall not be placed on the delinquent list until after the maturity of the note and contract. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 17.)

§ 51.311. Water Service Discontinued

If a landowner fails or refuses to pay a water assessment when due, his water supply shall be cut off, and no water may be furnished to the land until all back assessments are fully paid. The discontinuance of water service is binding on all persons who own or acquire an interest in land for which assessments are due. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 15 (part), 16.)

§ 51.312. Suits for Delinquent Assessments

Suits for delinquent water assessment may be brought either in the county in which the district is located or in the county in which the defendant resides. All landowners are personally liable for assessments provided in this subchapter. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 14, 15 (part).)

§ 51.313. Interest and Collection Fees

(a) All assessments shall bear interest from the date payment is due at the rate of 10 percent a year.

(b) If suit is filed to foreclose a lien on crops or if a delinquent assessment is collected by any legal proceeding, an additional amount of 10 percent on unpaid principal and interest shall be added as collection or attorney's fees. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 12 (part), 13 (part).)

§ 51.314. Rights of the United States

(a) If the board enters into a contract with the United States, the remedies in this subchapter available to the district also shall apply to enforce payment of charges due to the United States. The federal reclamation laws shall also apply.

(b) The directors shall distribute and apportion all water acquired by the district under a contract with the United States in accordance with acts of Congress, rules and regulations of the secretary of the interior, and provisions of the contract. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 18, 19, 20.)

§ 51.315. Surplus Assessments

If assessments made under this subchapter are more than sufficient to pay the necessary expenses of the district, the balance shall be carried over to the next year. (39th Legis., G.L., Ch. 25, Sec. 110, sen. 1 (part).)

§ 51.316. Insufficient Assessments

If the assessments made under this subchapter are not sufficient to pay the necessary expenses of the district, the unpaid balance shall be as-

essed pro rata, in accordance with the assessments made for the current year. The additional assessments shall be paid under the same conditions and penalties within 30 days after the date of assessment. (39th Legis., G.L., Ch. 25, Sec. 110, sen. 1 (part).)

§ 51.317. Determining Maintenance and Operation Charges

The board may make, establish, and collect maintenance and operation charges for service on the basis of the quantity of water furnished or appropriate measure of the service rendered. (39th Legis., G.L., Ch. 25, Sec. 106, sen. 1 (part).)

§ 51.318. Charges for Maintenance Expenses

(a) If maintenance charges are based on the quantity of water used, a fixed minimum charge may be made on all land, water connections, or other service entitled to receive and use water. An additional charge may be made for the use of more water than that covered by the minimum charge.

(b) The board may install proper measuring devices or require that they be installed. (39th Legis., G.L., Ch. 25, Sec. 106, sen. 1 (part), 2.)

§ 51.319. Charge to Cities and Towns

If a district includes a city or town or contracts with a city or town to supply water to it, the charge for the use of the water and the time and manner of payment shall be determined by the board or fixed by the contract made with the board. (39th Legis., Ch. 25, Sec. 106, sen. 3.)

§ 51.320. Loans for Maintenance and Operating Expenses

The board may borrow money to pay maintenance and operating expenses at an interest rate of not more than 10 percent a year and may pledge as security any of its notes or contracts with water users or accounts against them. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 11.)

§ 51.321. Water Service: Refused

The board may refuse water service to any person who refuses to pay the charges and assessments for water service or who fails or refuses to pay any taxes levied against his property after six months from the date the taxes become delinquent. (39th Legis., G.L., Ch. 25, Sec. 108.)

[Sections 51.322 to 51.330 reserved for expansion]

**SUBCHAPTER H. WASTE DISPOSAL AND
CONTROL OF STORM WATER**

Section 51.331. Authority to Dispose of Waste and Control Storm Water

(a) A district may include in its purposes and plans all improvements, facilities, plants, equipment, and appliances incident to or helpful or necessary to the collection, transportation, processing, disposal, and control of all domestic, industrial, or communal wastes, whether fluids, solids, or composites, and to gather, conduct, divert, and control local storm water or other local harmful excesses of water.

(b) The district may use any mechanical or chemical means or processes incident, necessary, or helpful to accomplish these purposes, and to conserve and promote the public health and welfare, and to protect, effect, or restore the purity and sanitary condition of the state's water. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 1 (part), 2, as amended.)

§ 51.332. Increasing District's Powers

(a) A district operating under the provisions of this chapter which did not at the time of its creation have the powers provided in Section 51.331 of this code may assume the additional powers in the same manner and by the same procedures as provided in this subchapter, except that it is not necessary to hold an election to confirm the order establishing the district's increased powers.

(b) The board may not issue a money obligation to finance the increased functions, facilities, and powers until after the electors of the district have authorized it by a constitutional and statutory majority vote as provided by this chapter to control the issuance of preliminary bonds or construction bonds as the proposal may require. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 13, as amended.)

§ 51.333. Approval of Petition Creating District

(a) The commission shall hear and determine the petition to create a district to exercise the powers and functions provided in Section 51.331 of this code.

(b) The commission shall hear and determine the petition under the applicable provisions of Sections 51.027–51.031 of this code.

(c) The Texas Water Development Board and the division of sanitary engineering of the State Health Department shall render advisory aid concerning the petition and plans of the district, if it is requested.

(d) Nothing in this section impairs the right of the commissioners court to grant a petition under the provisions of Section 51.021 of this code relating to a district to be located wholly in one county if the district will not have the powers provided in Section 51.331 of this code. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 10, 11, 12, as amended.)

§ 51.334. Election Provisions

The provisions of Sections 51.035–51.037 of this code shall not apply to an election to create a district to exercise the powers provided in Section 51.331 of this code. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 9 (part), as amended.)

§ 51.335. Other Governmental Agencies Included

(a) A district proposing to exercise the powers and to perform the functions provided in this subchapter may include any part of areas already included within the boundaries of any political subdivision, governmental agency, or body politic of the state.

(b) The district shall not usurp functions or duplicate a service already adequately exercised or rendered by the other governmental agency except under a valid contract with the other governmental agency. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 7, as amended.)

§ 51.336. Additional Land

Additional defined areas may be added to the district in the manner provided in this subchapter for creation of a district. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 9 (part), as amended.)

§ 51.337. Powers of District

The district has all the powers and rights of procedure, financing, construction, maintenance, rehabilitation, operation, and administration conferred by Article XVI, Section 59, of the Texas Constitution, and by this chapter. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 3, as amended.)

§ 51.338. Rules, Regulations, and Charges

(a) The district may adopt and enforce reasonable rules, regulations, and specific charges, fees, or rentals in addition to taxes.

(b) The board shall publish a copy of the adopted orders and regulations once a week for two consecutive weeks in one or more newspapers with general circulation in the district and record the adopted orders and regulations in full in the minutes of the district.

(c) After the required publication and recording, the police power of the district, as provided in this chapter, may be exercised to enforce the intent of the orders, and the district may discontinue a facility or service to prevent an abuse or to enforce payment of a due and unpaid charge. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 4, 5, 6, as amended.)

§ 51.339. Taxes

The district, either solely or in connection with other powers granted by this chapter, may impose taxes in addition to the taxes which may have been or may be imposed by another governmental agency included in the district. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 8, as amended.)

[Sections 51.340 to 51.350 reserved for expansion]

SUBCHAPTER I. GENERAL FISCAL PROVISIONS**Section 51.351. Construction Fund**

(a) The proceeds from the sale of bonds shall be deposited in the construction fund.

(b) Money deposited in the construction fund shall be used to pay expenses, debts, and obligations necessarily incurred in the creation, establishment, and maintenance of the district and to pay the purchase price of property and construction contracts, including purchases for which the bonds were issued.

(c) If the bonds were issued in accordance with a contract with the United States, debts and obligations may be paid from the construction fund under the terms of or incident to the contract.

(d) After the payment of obligations for which the bonds were issued, any remaining money in the construction fund may be transferred to the maintenance fund. (39th Legis., G.L., Ch. 25, Sec. 102.)

§ 51.352. Maintenance Fund

(a) The district shall have a maintenance fund which shall include money collected by assessment or other method for the maintenance, repair, and operation of the properties and plant of the district or for temporary annual rental due to the United States.

(b) The maintenance fund shall be used to pay all expenses of maintenance, repair, and operation of the district except the expenses of assessing and collecting taxes for the interest and sinking fund. Expenses for collecting taxes for the interest and sinking fund shall be paid from the interest and sinking fund.

(c) The district may pay from the maintenance fund other expenses for which the payment is not provided in this chapter. (39th Legis., G.L., Ch. 25, Sec. 103.)

§ 51.353. Amortization and Emergency Fund

(a) The board shall have a competent engineer make an inspection and valuation of the physical property of the district which is subject to de-

cay, obsolescence, injury, or damage by sudden, accidental, or unusual causes, and based on the inspection and valuation, the engineer shall determine as nearly as he can a sufficient amount to be set aside annually to pay for replacement of each item of physical property at the end of its economic life or for the restoration or replacement of any item of physical property if it is lost, injured, or damaged.

(b) The board shall set aside a portion of the maintenance fund as it is collected equal to the amount determined under Subsection (a) of this section and shall place this money in the amortization and emergency fund. No part of this fund may be spent except to replace amortized property or to replace or restore lost, injured, or damaged property.

(c) Any amount in the amortization and emergency fund which is not spent for the purposes for which the fund was created may be invested in bonds or interest bearing securities of the United States.

(d) The board is not required to create an amortization and emergency fund, but if the board does create the fund, it shall be kept up and maintained. (39th Legis., G.L., Ch. 25, Sec. 104, sen. 2, 3, 4, 5.)

§ 51.354. Expenditure of District Funds

Funds of the district shall be paid out on order of the board with warrants drawn for that purpose. (39th Legis., G.L., Ch. 25, Sec. 105, sen. 1.)

§ 51.355. Depository

Before bonds are sold, the board shall select a depository for the district as provided in this chapter, and the proceeds of the bonds shall be placed in the depository and disbursed as provided in this chapter. (39th Legis., G.L., Ch. 25, Sec. 35.)

§ 51.356. Selection of Depository

(a) The board shall select a depository for the district in the manner provided for the selection of a county depository and shall perform all duties provided by law for the selection of a depository, acceptance and approval of bonds, and other acts.

(b) The depository shall execute a good and sufficient bond approved by the board to fully protect the district and to guarantee the preservation of the funds and the accountability of the depository as provided by law. The bond shall be recorded in the district office and kept in a fire-proof vault or safe.

(c) Except as otherwise provided, the duties and the bond and security of the depository shall be the same as provided by law for a county depository. (39th Legis., G.L., Ch. 25, Sec. 113, sen. 1, 2, 3, 4, 5.)

§ 51.357. Functions and Duties of Depository

(a) Funds of the district shall be deposited in the depository and shall be paid out as provided in this chapter.

(b) The funds shall be deposited in the interest and sinking fund account, the construction account, or the maintenance account, and each account shall be maintained separately.

(c) No money may be paid from the interest and sinking fund account except to pay interest and principal on bonds and to pay the expenses of assessing and collecting taxes to pay for the bonds.

(d) The depository shall make a report of all money received and paid out by it at the end of each month and shall file the report and the vouchers with the records of the district in the depository vault. A copy of the report shall be made available for inspection by any taxpayer and shall be delivered to the successor of the depository. (39th Legis., G.L., Ch. 25, Sec. 113, sen. 6, 7, 8, 9.)

§ 51.358. Selecting a Bank as Depository in which a District Director has an Interest

(a) If the highest and best bidder to become the district depository is a bank in which a district director is a stockholder or a director, the bank may be selected as the depository if the interested director does not vote on the selection and the approval of the bond.

(b) Before the selection of the bank or the approval of the bond are effective, they must be submitted to and approved by the county judge in the county in which the district is located.

(c) If the county judge fails to approve the depository selected or the bond, new bids shall be requested and another bank selected as district depository. (39th Legis., G.L., Ch. 25, Sec. 114.)

§ 51.359. District Audit

(a) The district shall keep a complete system of accounts and may have the accounts audited on a monthly, quarterly, or semiannual basis by one or more county auditors or by any independent public accountant of recognized integrity and ability.

(b) The audit shall conform to January 1 as the end of the fiscal year, and any district which fails to have an audit in January and July of each year is subject to audit by the county auditor of the county in which the district's principal office is located and to payment of the actual cost of the audit for the omitted period. The cost of this special audit shall be determined by the commissioners court of the county which the auditor represents and paid by the district.

(c) The audit report shall be prepared in duplicate, and one copy shall be filed in the district office and one copy shall be filed in the auditor's office. These filed copies of the audit report shall be public records which are available for inspection by any interested person. (39th Legis., G.L., Ch. 25, Sec. 45, as amended.)

§ 51.360. Maintenance Tax

(a) A district may levy and collect a tax for maintenance purposes, including funds for planning, maintaining, repairing, and operating all necessary plants, properties, facilities, and improvements of the district and for paying costs of proper services, engineering and legal fees, and organization and administrative expenses.

(b) A maintenance tax may not be levied by a district until it is approved by a majority of the electors voting at an election held for that purpose. (39th Legis., G.L., Ch. 25, Sec. 107, sen. 1, 2, as amended.)

§ 51.361. Maintenance Tax Election

(a) The maintenance tax election may be held at the same time and in conjunction with the election to authorize bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns shall be the same as the procedure for a bond election.

(b) If only a maintenance tax election is called, the order calling the election shall be issued at least 15 days before the day of the election, and the election notice shall be published at least twice in a newspaper of general circulation in the district. The first publication of the notice shall be at least 14 days before the day of the election. (39th Legis., G.L., Ch. 25, Sec. 107, sen. 4, 5, as amended.)

§ 51.362. Expenditure of Surplus Maintenance Tax Funds

If a district has any surplus maintenance tax funds which are not needed for the purposes for which they were collected, the funds may be used for any lawful purpose. (39th Legis., G.L., Ch. 25, Sec. 107, sen. 6, as amended.)

[Sections 51.363 to 51.370 reserved for expansion]

SUBCHAPTER J. BORROWING MONEY

Section 51.371. Authority to Borrow Money

The board may declare that funds are not available to meet lawfully authorized obligations of the district, thereby creating an existing emergency, and may borrow money at a rate of not more than eight percent a year on notes of the district to pay the obligations. (39th Legis., G.L., Ch. 25, Sec. 32a, sen. 1 (part), as added.)

§ 51.372. Security for Loan

To secure the loan, the board may pledge up to 85 percent of any levied tax of the district which has not been collected by the district or may pledge as collateral any district bonds which have been authorized but not sold. (39th Legis., G.L., Ch. 25, Sec. 32a, sen. 1 (part), as added.)

§ 51.373. Maturity Date of Loan

(a) If taxes are pledged to pay for the loan, the loan shall mature not later than the following April 1.

(b) If preliminary or construction bonds are pledged to pay the loan, the loan shall mature not later than six months from the date it is made. (39th Legis., G.L., Ch. 25, Sec. 32a, sen. 1 (part), as added.)

§ 51.374. Loan Secured by Bonds

The amount of the loan may not be more than 25 percent of the district's unsold bonds and the par value of the bonds may not be more than 10 percent of the amount of the loan. (39th Legis., G.L., Ch. 25, Sec. 32a, sen. 1 (part), as added.)

§ 51.375. Expenditure of Loan Proceeds

No money obtained from a loan under Section 51.371 of this code may be spent for any purpose other than the purposes for which the pledged tax was levied or the pledged bonds were authorized. (39th Legis., G.L., Ch. 25, Sec. 32a, sen. 2, as added.)

§ 51.376. Authority of Certain Municipal Districts to Obtain Loans

A district which is created under Article XVI, Section 59, of the Texas Constitution, and which is established as a municipal district under Section 51.038 of this code may obtain a loan from any source. (42nd Legis., 3rd C.S., Ch. 24, Sec. 1, sen. 1; Sec. 2, sen. 1 (part).)

§ 51.377. Improvements Need not be Self-Liquidating

Improvements in districts borrowing money under Section 51.376 of this code do not have to be self-liquidating either in whole or in part. (42nd Legis., 3rd C.S., Ch. 24, Sec. 1, sen. 3.)

§ 51.378. Loans Accomplished by Sale of District Bonds

If the loan is secured by the sale of district bonds, the district may enter into an obligation to be conditioned conformably with the usages of investment banking to repurchase the bonds within the five-year period immediately following the date of the loan. (42nd Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 1 (part).)

§ 51.379. Loans Obtained without Sale of Bonds

(a) If a district desires to secure a loan under Section 51.376 of this code without the sale of bonds, the amount of the loan may be equal to, but shall not be more than, the estimated and authorized maximum cost of the improvement.

(b) Loans made under this section may be obtained to pay debt already incurred, to obtain money to begin work on the improvement, or to provide money to continue construction which has already begun.

(c) The proceeds of the loan shall be applied to the purpose for which it was authorized, but the lender is not required to assure that the funds are properly spent.

(d) The rate of interest on the loan shall not be more than six percent and the loan shall mature on a date agreed to by the parties which shall be more than five years from the date of the loan. (42nd Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 2, 3, 4, 5, 6.)

§ 51.380. Impounding Bonds

(a) If a loan is obtained under Section 51.376 of this code and the district has unsold bonds which were authorized to be used to pay for the improvements which are to be paid for with the loan, the district shall impound in its depository the unsold bonds in a par amount which is as nearly equal the amount of the loan as possible.

(b) If there are not enough unsold bonds to equal the amount of the loan, the district shall impound all the unsold bonds which are available.

(c) Any bonds which are impounded shall remain impounded unless they are:

(1) withdrawn by the borrower in proportion to the progressive reductions of the debt;

(2) placed under pledge as provided in Section 51.381 of this code;

or

(3) sold and the proceeds applied to the payment of the loan. (42nd Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 7, 8, 9.)

§ 51.381. Pledge of Commercial Income

(a) The term "commercial income" means income other than revenue derived from taxation.

(b) If required to do so, a district may pledge its existing and expected commercial income to secure a loan under Section 51.376 of this code to the extent that the pledge will not obviously and substantively impair the ability of the district to pay obligations which are held by others.

(c) If a district expects commercial income in the future but does not have the demonstrated income in an amount adequate to discharge the loan when it matures, the district may pledge the expected commercial income as provided in Subsection (b) of this section and in addition, or as an alternative, may pledge with a power of sale its unsold bonds in a par amount which shall not be more than the amount of the loan plus 10 percent. The district is not required to impound the bonds. The rate of interest on the loan may not be more than six percent.

(d) After commercial income is pledged, it may not be used for any purpose except to pay the debt which it secures, and it shall be applied to the reduction of the secured debt as rapidly as practicable. (42nd Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 10, 11, 12, 13.)

§ 51.382. Evidence of Debt

To evidence loans which are not secured by the sale of bonds, the district may execute and deliver to the lender certificates of indebtedness, notes, or obligations and may pledge its full faith and credit for their payment to the same extent that it may be pledged by district bonds. (42nd Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 14.)

§ 51.383. Retiring Bonds

If bonds are impounded or pledged to secure a loan made to a district, as the loan is repaid a proportionate amount of the bonds may be withdrawn, cancelled, and retired. (42nd Legis., 3rd C.S., Ch. 24, Sec. 4.)

§ 51.384. **Construction**

The provisions of Sections 51.376–51.383 of this code shall be liberally and sympathetically construed so that the districts covered by these sections will have the fullest and most flexible powers to comply with all conditions precedent required of the borrower by the lender unless specifically limited by these sections. (42nd Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 15.)

[Sections 51.385 to 51.400 reserved for expansion]

SUBCHAPTER K. ISSUANCE OF BONDS

Section 51.401. Authority to Issue Bonds of Districts Operating under Article III, Section 52, of the Texas Constitution

A district which is operating under Article III, Section 52, of the Texas Constitution, may issue bonds and lend its credit in an amount of not more than one-fourth of the assessed valuation of the real property in the district. However, the total indebtedness of any city or town may never be more than the limits imposed by the Texas Constitution. (39th Legis., G.L., Ch. 25, Sec. 5 (part).)

§ 51.402. Authority to Issue Bonds of Districts Operating under Article XVI, Section 59, of the Texas Constitution

A district operating under Article XVI, Section 59, of the Texas Constitution, may incur debt evidenced by the issuance of bonds which is necessary to provide improvements and maintenance of improvements to achieve the purposes for which the district was created. (39th Legis., G.L., Ch. 25, Sec. 6 (part).)

§ 51.403. Amount of Debt Limited by Constitution

No district may issue bonds or create indebtedness in an amount which is more than that authorized by the Texas Constitution. (39th Legis., G.L., Ch. 25, Sec. 93.)

§ 51.404. Issuance of Preliminary Bonds

A district may issue preliminary bonds to create a fund to pay:

- (1) costs of organization;
- (2) costs of making surveys and investigations;
- (3) attorney's fees;
- (4) costs of engineering work;
- (5) costs of the issuance of bonds; and
- (6) other costs and expenses incident to organization of the district and its operation in investigating and determining plans for its plant and improvements and in issuing and selling bonds to provide for permanent improvements. (39th Legis., G.L., Ch. 25, Sec. 31, sen. 3.)

§ 51.405. Election on Preliminary Bonds

(a) The proposition for the issuance of preliminary bonds shall be submitted to the electors of the district.

(b) The election may be held at the same time as the election to confirm the creation of the district or at a later time.

(c) The board shall make an estimate of the expenses to be paid with the proceeds of the preliminary bonds and shall include this estimate in the notice of election. (39th Legis., G.L., Ch. 25, Sec. 31, sen. 4, 5; and Sec. 32, sen. 1, as amended.)

§ 51.406. Conditions of Preliminary Bonds

(a) After preliminary bonds have been authorized at an election, the board may order the issuance of the bonds in an amount which is not more than the amount stated in the notice of election.

(b) The bonds may be paid serially or on amortization at any time not more than 10 years from their date.

(c) Although the bonds will be known and designated in the records as preliminary bonds, it is not necessary to make this designation on the bonds. (39th Legis., G.L., Ch. 25, Sec. 31, sen. 7 (part), 8; and Sec. 32, sen. 2, 3, as amended.)

§ 51.407. Tax to Pay Preliminary Bonds

At the time preliminary bonds are issued, a tax shall be levied to pay principal and interest as the bonds mature and to pay the cost of assessing and collecting the taxes. (39th Legis., G.L., Ch. 25, Sec. 32, sen. 4, as amended.)

§ 51.408. Issuance of Bonds

(a) After a district is created and has adopted plans for construction of a plant and improvements, it may issue bonds to pay for constructing the plant and improvements and to pay costs and charges incident to the construction including the cost of necessary property and the retirement of preliminary bonds.

(b) The maximum amount of bonds which may be issued may not be more than the amount of the engineer's estimate plus the additional amounts added by the board in the election order. (39th Legis., G.L., Ch. 25, Sec. 78, sen. 1, as amended; and Sec. 79, sen. 3, as amended.)

§ 51.409. Purposes for Issuance of Bonds

The district may issue bonds to include:

- (1) the cost of organization of the district;
- (2) incidental expenses;
- (3) the cost of investigation and making plans;
- (4) the engineer's work and other incidental expenses;
- (5) the cost of retirement of preliminary bonds;
- (6) the cost of issuing and selling bonds;
- (7) the estimated discount on the bonds;
- (8) the cost of operation of district for the period of construction of the plant and improvements stated in the engineer's report;
- (9) an amount to pay interest on the bonds during the period stated in the engineer's report, which shall not be more than three years from the time the bonds are sold; and
- (10) any additional cost or expense made necessary by any change or modification made in the proposed work by the district. (39th Legis., G.L., Ch. 25, Sec. 79, sen. 1, 2 (part), as amended.)

§ 51.410. Engineer's Report

(a) Before an election is held to authorize the issuance of bonds, an engineer's report, which includes the plans and improvements to be constructed together with maps, plats, profiles, and data showing and explaining the engineer's report, shall be filed in the office of the district and shall be available for public inspection.

(b) The engineer's report shall contain a detailed estimate of the cost of improvements, including the cost of any property to be purchased, and an estimate of the time required to complete the improvements to the degree to which they may provide service.

(c) The board shall consider the engineer's report and may make changes in the report and note them in the minutes. (39th Legis., G.L., Ch. 25, Sec. 78, sen. 2, 3, 4, as amended.)

§ 51.411. Election Order

(a) After the engineer's report is filed and approved, the board may order an election in the district to authorize the issuance of the bonds.

(b) In the order, the board shall estimate the total amount of money needed to cover the items listed in Section 51.409 of this code.

(c) The election order shall state:

- (1) the proposed maximum interest rate on the bonds;
- (2) the maximum maturity date of the bonds;
- (3) the time and places for holding the election; and
- (4) the names of the election officers.

(d) The election order shall be entered in the minutes of the board. (39th Legis., G.L., Ch. 25, Sec. 78, sen. 5, as amended; Sec. 79, sen. 2 (part), 4, as amended; and Sec. 83, sen. 1.)

§ 51.412. Notice of Election

(a) Notice of the bond election, signed by the president and secretary of the board, shall be published once a week for four consecutive weeks in a newspaper with general circulation in the county or counties in which all or part of the district is located. The first publication shall be at least 28 days before the day of the election.

(b) The notice shall include:

- (1) the maximum amount of bonds to be issued;
- (2) the proposed maximum interest rate;
- (3) the maximum maturity date;
- (4) the time and places for holding the election;
- (5) a substantial statement of the proposition;
- (6) a summary of the engineer's estimate of the cost of the proposed improvements; and
- (7) a statement of any estimate or estimates made by the board in its order calling the election.

(c) If a contract with the United States is proposed at the election, the notice shall state the maximum amount of money to be paid for construction purposes, exclusive of penalties and interest.

(d) A copy of the election notice, together with a copy of the published notice with the publisher's affidavit attached, shall be filed in the office of the district. (39th Legis., G.L., Ch. 25, Sec. 80, as amended; Sec. 82; and Sec. 83, sen. 2.)

§ 51.413. Ballots

(a) The proposition to be voted on shall be the issuance of the total amount of bonds covered by the engineer's estimate plus additional estimates made by the board.

(b) The ballots shall be printed to provide for voting for or against: "The issuance of bonds and the levy of taxes to pay for the bonds."

(c) If a contract is proposed with the United States under the federal reclamation laws, the ballots shall be printed to provide for voting for or against: "The contract with the United States and the levy of a tax to pay the contract." (39th Legis., G.L., Ch. 25, Sec. 79, sen. 6, as amended; and Sec. 81.)

§ 51.414. Vote at Election

(a) Bonds of a district operating under the provisions of Article III, Section 52, of the Texas Constitution, may be issued only with the approval of two-thirds of the electors of the district participating in the election.

(b) In a district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, bonds may be issued or indebtedness created only with the approval of a majority of the electors of the district participating in the election. (39th Legis., G.L., Ch. 25, Sec. 8, 9.)

§ 51.415. Order to Issue Bonds or Execute Contract

After the vote is canvassed and the results are declared to be favorable to the proposition, the board shall make and enter an order directing the issuance of the bonds or the execution of a contract with the United States. The bonds or contract shall be in a sufficient amount to pay for the improvements together with all necessary incidental expenses, but the amount may not be more than the amount specified in the election order and notice of election. (39th Legis., G.L., Ch. 25, Sec. 87, sen. 1.)

§ 51.416. Record of Bond Proceedings Submitted to Attorney General

(a) After a district issues bonds other than preliminary bonds, but before they are sold, the record showing all the proceedings in the creation of the district and the issuance of the bonds shall be filed in the office of the attorney general.

(b) The attorney general shall examine the record and give his opinion on it.

(c) The record may be presented to the attorney general before the bonds are printed, and the bonds may be executed after the record is completed.

(d) After the record is approved, the bonds shall be issued or duly executed. (39th Legis., G.L., Ch. 25, Sec. 34, sen. 1, 2, 3 (part).)

§ 51.417. Approval and Registration of Bonds

(a) After the bonds are issued and executed, they shall be submitted to the attorney general for approval.

(b) If the attorney general finds that the bonds are issued according to law and are valid, binding obligations of the district, he shall officially certify the bonds and execute a certificate, which shall be filed with the comptroller and recorded in the book kept for that purpose.

(c) The bonds may not be registered with the comptroller until 20 days after the day of the election authorizing the issuance of the bonds. (39th Legis., G.L., Ch. 25, Sec. 34, sen. 3 (part), 4, 6.)

§ 51.418. Validity of Bonds

After the bonds are approved by the attorney general and registered by the comptroller, they shall be held to be valid, binding obligations of the district in any suit testing their validity. Any person interested in the bonds may file a suit before the bonds are registered to test the validity, but may not bring suit to test validity after the bonds are registered. (39th Legis., G.L., Ch. 25, Sec. 34, sen. 5.)

§ 51.419. Conditions of Bonds

(a) The bonds may be issued to mature at the end of a term of years or to mature serially at any date which is not later than the maximum maturity date stated in the election order.

(b) The bonds may be issued at any rate of interest which is not more than the rate of interest set in the election order. (39th Legis., G.L., Ch. 25, Sec. 79, sen. 5, as amended.)

§ 51.420. Form of Bonds

(a) The bonds shall be issued in the name of the district and shall be signed by the president and attested by the secretary, with the seal of the district attached.

(b) The bonds shall be issued in denominations of \$100 or multiples of \$100 and shall be payable annually or semiannually.

(c) The board shall determine and include in the bonds the time, place, manner, and condition of payment of principal and interest on the bonds, but none of the bonds may be made payable more than 40 years from their date.

(d) The lien for payments due to the United States under a contract that was not accompanied by a deposit of bonds with the United States shall be a preferred lien to that of any issue of bonds or any series of any issue of bonds subsequent to the date of the contract. (39th Legis., G.L., Ch. 25, Sec. 86, as amended.)

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, § 4, eff. May 31, 1971.

§ 51.421. Authority of Commission over Issuance of District Bonds

(a) As used in this section and Section 51.422 of this code, "designated agent" means any licensed engineer selected by the commission to perform the functions specified in those sections.

(b) The commission shall investigate and report on the organization and feasibility of all districts that issue bonds under this chapter.

(c) Any district that desires to issue bonds under this chapter shall submit to the commission a written application for investigation, together with copies of the engineer's report and data, profiles, maps, plans, and specifications prepared in connection with the engineer's report.

(d) The commission or its designated agents shall examine the application and accompanying documents and shall visit and carefully inspect the project. The commission or its designated agents may request and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(e) The commission or its designated agents shall file in their office written suggestions for changes and improvements and shall furnish a copy of the report to the board of the district.

(f) If the commission approves or refuses to approve the project or the issuance of bonds for the improvements, it shall make a full written report which it shall file in its office and a copy of the report shall be furnished to the district. (39th Legis., G.L., Ch. 25, Sec. 139, sen. 1, 2, 3, 4, 5, 12, as amended.)

§ 51.422. Commission Supervision of Projects and Improvements

(a) During construction of projects and improvements approved by the commission, no substantial alterations may be made in the plans and specifications without the approval of the commission.

(b) The commission or its designated agent may inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission.

(c) If the commission finds that the project is not being constructed in accordance with the approved plans and specifications, it shall give written notice immediately by certified mail to each member of the board of the district and the district's manager.

(d) If within 10 days after the notice is mailed the board of the district does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the commission shall give written notice of this fact to the attorney general.

(e) After the attorney general receives this notice, he may bring an action for injunctive relief or quo warranto proceedings against the directors. Venue for either suit is exclusively in a district court in Travis County. (39th Legis., G.L., Ch. 25, Sec. 139, sen. 6, 7, 8, 9, 10, 11, as amended.)

§ 51.423. Validation Suit

(a) A district may file a suit to determine the validity of the creation of the district and the bonds.

(b) If requested by the secretary of the interior, the district shall file a suit to validate a contract made with the United States.

(c) If a validation suit is filed, the bonds do not have to be approved by the attorney general. (39th Legis., G.L., Ch. 25, Sec. 95, sen. 1 (part), 3, as amended; and Sec. 96, sen. 2.)

§ 51.424. Effect of Prior Registration

If bonds are approved by the attorney general and registered by the comptroller before a validation suit is filed, the filing of the suit cancels the prior registration. (39th Legis., G.L., Ch. 25, Sec. 97, sen. 5.)

§ 51.425. Procedure in Validation Suit

(a) A validation suit shall be brought by the district in the district court of any county in which all or part of the district is located or in a district court in Travis County.

(b) The suit shall be in the nature of a proceeding in rem.

(c) Any person who is interested in the suit may intervene and file an answer.

(d) The issue shall be tried and determined by the court and judgment shall be entered on the findings.

(e) A validation suit has preference over all other suits to allow a speedy determination. (39th Legis., G.L., Ch. 25, Sec. 96, sen. 1, 3 (part); and Sec. 97, sen. 3, 4, 6.)

§ 51.426. Notice of Validation Suit

(a) To obtain jurisdiction of all parties to the validation suit, a general notice shall be published.

(b) The notice shall be published once a week for at least two consecutive weeks before the term of the court at which the notice is to be returned. The notice shall be published in a newspaper with general circulation in the county or counties in which the district is located, but if no newspaper is published inside the district, the notice shall be published in a newspaper in the nearest county in which a paper is published.

(c) Notice also shall be served on the attorney general in the manner provided in civil suits.

(d) The attorney general may waive notice if he is furnished a full transcript of the proceedings held in connection with the creation of the district and the issuance of the bonds or held in connection with the authorization of a contract with the United States. A copy of the contract with the United States also must be furnished. (39th Legis., G.L., Ch. 25, Sec. 96, sen. 3 (part), 4, 5, 6.)

§ 51.427. Duties of Attorney General in Validation Suit

(a) The attorney general shall examine all the proceedings and shall require any further evidence and make any further examination which he considers advisable.

(b) The attorney general then shall file an answer to the suit, submitting the issue of whether the proceedings are valid and the bonds are legal and binding obligations of the district or whether the contract with the United States is legal and binding on the district. (39th Legis., G.L., Ch. 25, Sec. 97, sen. 1, 2.)

§ 51.428. Judgment in Validation Suit

(a) After the trial of the validation suit, if the judgment of the court is adverse to the district on any issue, the district may make an exception and point out the error, and the error may be corrected by the judge in the manner directed by the court.

(b) The judgment shall be rendered showing that the corrections have been made and that the bonds or the contract with the United States are binding obligations of the district.

(c) After the judgment is entered, it is res judicata in all cases which may arise in connection with:

- (1) the collection of the bonds or their interests;
- (2) any taxes levied to pay charges or any money required to pay a contract with the United States; and
- (3) all matters relating to the organization and validity of the district or the validity of the bonds or contract. (39th Legis., G.L., Ch. 25, Sec. 98.)

§ 51.429. Effect of Validation Suit

(a) After a final judgment is rendered in the validation suit, the bonds or the contract with the United States shall be incontestable.

(b) No suit may be brought in any court of this state to contest or enjoin the validity of the creation of the district, any bonds which are issued, any contract with the United States, or the authorization of a contract with the United States except in the name of the State of Texas by the attorney general on his own motion or on the motion of any party affected on good cause shown.

(c) The attorney general may not file or prosecute such a suit unless it is based on allegations of fraud disclosed or found after the final judgment in the validation suit was rendered. (39th Legis., G.L., Ch. 25, Sec. 95, sen. 1 (part), 2, as amended.)

§ 51.430. Certified Copy of Decree

(a) After the judgment of the district court is entered, the clerk of the court shall make a certified copy of the decree which shall be filed with the comptroller. The comptroller shall record the decree in the book kept for that purpose.

(b) The certified copy of the decree or a certified copy of the comptroller's record of the decree shall be received in evidence in any suit which may affect the validity of the organization of the district or the validity of the bonds or the contract and shall be conclusive evidence of validity. (39th Legis., G.L., Ch. 25, Sec. 99.)

§ 51.431. Registration of Bonds and Decree

On the presentation of the bonds together with a certified copy of the decree of the court, the comptroller shall register the bonds in a book kept for that purpose. The comptroller shall attach to each bond a certificate stating that the court's decree has been filed and recorded in his office and shall sign the certificate and attach his official seal. (39th Legis., G.L., Ch. 25, Sec. 100.)

§ 51.432. Sale of Bonds

(a) After the bonds are issued by the district, the board shall sell the bonds on the best terms and for the best price possible.

(b) The board shall pay the proceeds from the sale of the bonds to the district depository.

(c) The district may exchange bonds for property acquired by purchase or to pay the contract price of work done for the use and benefit of the district. (39th Legis., G.L., Ch. 25, Sec. 101, as amended.)

§ 51.433. Tax Levy

(a) At the time bonds are voted, the board shall levy a tax on all property inside the district in a sufficient amount to redeem and discharge the bonds at maturity.

(b) The board annually shall levy or have assessed and collected taxes on all property inside the district in a sufficient amount to pay for the expenses of assessing and collecting the taxes.

(c) If a contract is made with the United States, the board annually shall levy taxes on property inside the district in a sufficient amount to pay installments and interest as they become due.

(d) The board may issue the bonds in serial form or payable in installments, and the tax levy shall be sufficient if it provides an amount sufficient to pay the interest on the bonds, the proportionate amount of the principal of the next maturing bonds, and the expenses of assessing and collecting the taxes for that year. (39th Legis., G.L., Ch. 25, Sec. 90.)

§ 51.434. Adjustment of Tax Levy

(a) The tax levy made in connection with the issuance of bonds shall remain in force from year to year until a new levy is made.

(b) The board may from time to time increase or diminish the tax to adjust it for the taxable values of the property subject to taxation by the district and the amount required to be collected.

(c) The board shall raise an amount sufficient to pay the annual interest of and principal on all outstanding bonds. (39th Legis., G.L., Ch. 25, Sec. 91, sen. 1, 2.)

§ 51.435. Changing Tax Rate

If the tax levied is based on the assessed value obtained from the county tax rolls, or the tax rolls of the district for the preceding year and new tax rolls are approved before the time for collection of taxes, the board may change the tax rate provided the new rate is sufficient when applied to the new assessed value to raise the needed amount. (39th Legis., G.L., Ch. 25, Sec. 32, sen. 5, as amended.)

§ 51.436. Interest and Sinking Fund

(a) The district shall have an interest and sinking fund which shall include all taxes collected under this chapter.

(b) Money in the interest and sinking fund may be used only:

(1) to pay principal and interest on the bonds;

(2) to defray the expenses of assessing and collecting the taxes;
and

(3) to pay principal and interest due under a contract with the United States if bonds have not been deposited with the United States.

(c) Money in the fund shall be paid out of the fund on warrants by order of the board as provided in this chapter.

(d) The depository shall receive and cancel each interest coupon and bond as it is paid and shall deliver it to the board to be recorded, cancelled, and destroyed. (39th Legis., G.L., Ch. 25, Sec. 94; and Sec. 105, sen. 2.)

§ 51.437. Investment of Sinking Fund

(a) The board may invest any portion of the sinking fund of the district in bonds of the United States, the state, any county or city in the state, any irrigation or water improvement district, school district, or other tax bonds issued under the laws of the state.

(b) The funds may be invested if the bonds to be paid with them do not mature within three years from the time the investment is made and if it is necessary to preserve the best interest of the district. (39th Legis., G.L., Ch. 25, Sec. 91, sen. 3.)

§ 51.438. Refunding Bonds

(a) The district may refund any bonds issued by it by issuing new bonds.

(b) Refunding bonds may be issued only if the old bonds are taken in exchange at their face value or less or new bonds can be sold at a premium and the old bonds retired without loss to the district.

(c) The comptroller may not register the refunding bonds until the old bonds for which the refunding bonds are being issued are presented to him for cancellation or until a valid contract providing for the purchase or exchange of the old bonds is executed and a copy filed in his office.

(d) The comptroller shall keep the refunding bonds until the old bonds are presented to him for exchange or payment, and if the old bonds are presented for payment, the district shall pay them before the refunding bonds are registered. (39th Legis., G.L., Ch. 25, Sec. 92.)

§ 51.439. Limitation of Authority to Incur Debt and Issue Bonds

(a) For the benefit of purchasers or holders of bonds to be issued or sold, the board of a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may limit the authority of the district to incur debt or issue bonds.

(b) The board shall limit the authority by adopting a resolution which states that during a period of not more than 15 years the district will not issue bonds in an amount of more than 25 percent of the assessed value of taxable real property in the district according to the last assessment for district purposes or in an amount of more than a fixed sum or for certain named purposes.

(c) The board shall publish notice of the adoption of the resolution once a week for two consecutive weeks in a newspaper with general circulation in the district. The notice shall state that the resolution will take effect unless a petition against the proposed limitation signed by 20 percent of the electors of the district is presented within 20 days after the first publication of the notice.

(d) If a petition is filed against the limitation, the resolution will not take effect until it is approved at an election held in the district.

(e) The ballots for the election shall be printed to provide for voting for or against: "The limitation during the term of _____ years of the maximum debt of the district to _____." (The blank spaces shall be filled with the purpose of the election.)

(f) If the limitation is approved at an election or if no petition is filed against the resolution, the district may not issue bonds under any statute or constitutional provision in excess of the limitation during the designated term of years except to complete and make repairs to improvements whose cost will be within the debt limitation. (39th Legis., G.L., Ch. 25, Sec. 85, sen. 1, 2, 3, 4, 5, 6 (part), as amended.)

§ 51.440. Issuing Bonds in Excess of Limitation

(a) A district may issue bonds in excess of a limitation made under Section 51.439 of this code only after the commission has approved the plans and specifications with the estimate of costs.

(b) If the plans, specifications, and estimate are approved, notice of the intention to issue the bonds shall be published once a week for three consecutive weeks in a newspaper with general circulation in the district. The notice shall include a statement of the purpose for issuing the bonds, the amount of the proposed bond issue, and the time the hearing is to be held, which may not be less than 30 days after the notice is first published.

(c) The board shall hold the hearing and any taxpayer, bondholder, or other interested person may appear and be heard.

(d) If the board approves the issuance of the additional bonds in the amount and for the purpose stated in the notice, the question of issuing the bonds shall be submitted to the electors of the district at an election. (39th Legis., G.L., Ch. 25, Sec. 85, sen. 6 (part), 7, 8, 9, 10, as amended.)

§ 51.441. Modifications of Improvements

(a) After bonds are issued or a contract is entered into with the United States, the board may give notice of an election to be held to authorize the issuance of additional bonds or a further contract with the United States.

(b) Additional bonds may be issued or a supplemental contract made if the board considers it necessary to:

- (1) make modifications in the district or its improvements;
- (2) construct further or additional improvements and issue additional bonds on the report of the engineer;
- (3) make a supplemental contract with the United States;
- (4) make, on its own motion, additional improvements or purchase additional property to accomplish the purposes of the district and to serve the best interest of the district.

(c) The board shall enter its findings in the minutes.

(d) The election shall be held and the returns made in the manner provided in this chapter for the original election.

(e) If the result of the election favors the issuance of the bonds or the supplemental contract with the United States, the board may order the bonds issued or the contract made with the United States in the manner provided in this chapter.

(f) If a supplemental contract is made with the United States and bonds are not to be deposited with the United States, it is not necessary to issue bonds. If the district is required to raise money in addition to the amount of the contract, the bonds shall be issued only in the additional amount needed. (39th Legis., G.L., Ch. 25, Sec. 88.)

§ 51.442. Issuance of Additional Bonds or Creation of Additional Indebtedness under Certain Conditions

(a) A district may issue additional bonds or create additional indebtedness:

(1) if works, improvements, and facilities constructed under a plan provided in Section 51.410 or 51.422 of this code are inadequate to accomplish the beneficial results which the district's location and conditions demand;

(2) if it is considered necessary to make repairs, replacements, or additions to the district's improvements which cost more than \$25,000;
or

(3) if additional money is needed to complete the improvements as planned.

(b) The district shall provide the additional money for the particular purpose in accordance with the provisions of this chapter regulating the creation of bond obligations subject to every limitation with respect to the original proceedings and the substantial protection of the substantive rights of holders of any of the district's outstanding obligations. (39th Legis., G.L., Ch. 25, Sec. 89, as amended.)

§ 51.443. Interim Bonds

After bonds, other than preliminary bonds or notes, are voted by a district, the board may declare an existing emergency with relation to money being unavailable to pay for engineering work, purchase of land, rights-of-way, construction sites, construction work, and legal and other necessary expenses and may issue interim bonds on the faith and credit of the district in the manner provided in Sections 51.444-51.449 of this code to pay these expenses. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 1, as amended.)

§ 51.444. **Limitations on Interim Bonds**

(a) Interim bonds shall mature not later than 10 years from the date they are issued and shall be redeemable at any time before they mature, as provided in this subchapter.

(b) The principal amount of the interim bonds may not be more than 25 percent of the principal amount of the district's bonds which have been voted but not sold.

(c) Before the issuance of the interim bonds, the board, by resolution, may limit the issue to any amount less than 25 percent, and after the amount is determined and fixed by the resolution, no additional interim bonds may be issued and sold until all outstanding interim bonds are paid. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 2, 3, as amended.)

§ 51.445. **Issuance of Bonds and Levy of Tax**

(a) After bonds other than preliminary bonds are voted, the board may authorize the issuance of the bonds in whole or in part as they are needed by the district.

(b) The board shall levy and annually assess and collect sufficient taxes to pay principal and interest on the bonds.

(c) The bonds may be approved by the attorney general and registered by the comptroller before the filing of the report of the Texas Water Rights Commission under Section 51.421 of this code. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 4, 5, as amended.)

§ 51.446. **Deposit of Bonds to Secure Interim Bonds**

(a) As the interim bonds are issued and sold, the board, by order, shall deposit bonds of the district which have been validated by a court or approved by the attorney general and registered by the comptroller as provided in Section 51.417 of this code in the district depository.

(b) The bonds deposited shall be credited to the interest and sinking fund account created to pay the interim bonds.

(c) The principal amount of the bonds deposited shall total at least 110 percent of the principal sum of the series of interim bonds which the bonds are deposited to secure.

(d) The interest rate on the interim bonds may not be more than the interest rate on the bonds deposited to secure them. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 6, 7, as amended.)

§ 51.447. **Procedure for Issuance and Sale of Interim Bonds**

(a) Interim bonds shall be issued in the name of the district, signed by the president, and attested by the secretary, with the district seal attached to each bond.

(b) The interim bonds may be issued in the denominations determined by the board and shall be approved by the attorney general and registered by the comptroller in the same manner as provided in Section 51.417 of this code.

(c) Interim bonds may be sold in the same manner and on the same terms provided by law for the sale of other bonds of the district.

(d) If interim bonds are sold at less than par value and accrued interest, the improvement bonds issued by the district must be sold at an increase over the price authorized by law in an amount sufficient to equal the discount allowed on the interim bonds. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 8, as amended.)

§ 51.448. **Payment of Interim Bonds**

(a) The board shall appropriate the tax levied to pay the bonds deposited to the credit of the interest and sinking fund to pay the interim bonds or as much of that tax as necessary to secure the loan evidenced by the interim bonds.

(b) The proceeds of the tax shall be devoted exclusively to the payment of the principal and interest on the interim bonds.

(c) None of the provisions of this subchapter relating to interim bonds shall be construed as prohibiting the sale of bonds deposited to the credit of the interest and sinking fund to pay interim bonds or of any other bonds of the district, but if any of these bonds are sold, the district depository shall apply the proceeds to the payment of principal and accrued interest on the interim bonds and the remainder to the purposes for which the bonds were authorized.

(d) If none of the bonds are sold at the time an installment on the principal and interest of interim bonds matures, the depository shall cancel the deposited bonds and attached interest coupons in an amount equal to the principal and interest of the interim bonds paid off and discharged. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 9, as amended.)

§ 51.449. Redemption of Interim Bonds

(a) At the option of the board, interim bonds may be redeemed at any time or times before maturity on payment by the district of the principal and accrued interest to the date fixed for redemption by the board.

(b) When interim bonds are called for redemption before maturity, the secretary shall give written notice of the redemption to the bank or banking house named as the place of payment in the bonds or to its successor or assign..

(c) In the notice, the secretary shall designate the bond or bonds called for redemption and payment and shall state number or numbers of the bonds.

(d) The notice shall include the redemption date which shall not be more than 60 days after the date notice of call for payment is made.

(e) If any of the bonds which are called for redemption are not presented, they shall cease to bear interest from and after the date fixed for redemption. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 10, 11, 12, as amended.)

§ 51.450. Alternate Methods for Paying Bonds

(a) As used in this section and in Sections 51.450–51.454 of this code, “net revenue” means income or increment which may come from ownership and operation of the improvements which are encumbered less the proportion of the district’s revenue income reasonably required to provide for administration, efficient operation, and adequate maintenance of the district’s services and facilities which are encumbered. Net revenue does not include money derived from taxation.

(b) A district which expects net revenue from operations may secure its bonds in any one of the following:

(1) as provided in Section 51.433 of this code;

(2) by entering into a contract to pledge the net revenue of the district and to mortgage and encumber part or all of the property and facilities, franchise, revenue and income from operations, and everything acquired or to be acquired by the district; or

(3) as provided in both Subdivisions (1) and (2) of this subsection. (39th Legis., G.L., Ch. 25, Sec. 90a, sen. 1, 2, as amended.)

§ 51.451. Taxes to Secure Certain Bonds

(a) If bonds are secured as provided in Section 51.450(b)(3) of this code, at the time that net revenue together with money derived from taxes accumulates a surplus in the sinking fund equal to the amount required in the succeeding year to liquidate the interest and principal on the district’s bonds maturing in that year, the district’s annual tax levies may be lowered to produce not less than 25 percent of the bond maturities for the succeeding year.

(b) If three successive years demonstrate that this net revenue is adequate to protect the district's bonds as they mature, the district's tax may be discontinued until further experience demonstrates the necessity to continue the tax to avoid default in the payment of the district's bonds as they mature. (39th Legis., G.L., Ch. 25, Sec. 90a, sen. 3 (part), as amended.)

§ 51.452. Election

(a) If the district proposes to issue bonds which will be secured under either Section 51.450(b)(2) or 51.450(b)(3) of this code, the proposition shall be presented at an election held under Section 51.413 of this code.

(b) The ballots for the election shall be printed to provide for voting for or against one of the following propositions:

(1) "The issuance of bonds and the pledge of net revenue for the payment of the bonds.";

(2) "The issuance of bonds, the pledge of net revenue, and the creation of a lien on physical property to secure payment of the bonds.";

or

(3) "The issuance of bonds, the pledge of net revenue, and the levy of adequate taxes to pay the bonds." (39th Legis., G.L., Ch. 25, Sec. 90a, sen. 3 (part), as amended.)

§ 51.453. Hearing and Election on Certain Bonds

(a) A district which plans to issue bonds payable from and secured by a pledge of net revenue and a lien on the physical property, either or both, without the levy of taxes, is not required to hold a hearing to exclude land or adopt a plan of taxation.

(b) The proposition for issuance of bonds may be submitted at the election held to confirm the creation of the district or at an election called by the board. (39th Legis., G.L., Ch. 25, Sec. 90a, sen. 4, 5, as amended.)

§ 51.454. Hearing before Issuing Certain Bonds

If a district issues its original bonds under Section 51.450(b)(2) of this code and later desires to issue bonds payable in whole or in part from taxes or to levy a tax for maintenance purposes, the district shall hold a hearing to exclude land, and at the time provided by law, shall hold another hearing to adopt a plan of taxation. These hearings shall be held before an election is called to approve the issuance of tax-supported bonds or the levy of a maintenance tax. (39th Legis., G.L., Ch. 25, Sec. 90a, sen. 6, as amended.)

§ 51.455. Issuance of Revenue Bonds to Construct Extensions and Improvements to Certain Systems

(a) A district which has adopted a plan for improvements designed to furnish a water and sewer system may also issue its revenue bonds as provided in Section 51.450(b)(2) of this code to construct extensions and improvements to the water and sewer system or to an irrigation system.

(b) The district may pay the revenue bonds by entering into contracts to pledge the net revenue derived from the sale of water for irrigation purposes and service charges obtained from the sale and distribution of water for irrigation purposes.

(c) The bonds may be issued in one or more issues under the terms and conditions considered by the board to be advisable. (39th Legis., G.L., Ch. 25, Sec. 90b, as added.)

SUBCHAPTER L. TAX PLAN

Section 51.501. Tax to Pay Preliminary Bonds

Taxes to pay principal and interest on preliminary bonds shall be levied and collected on the ad valorem basis. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 1, as added.)

§ 51.502. Hearing to Determine Basis of Taxation

After the board adopts plans for construction of a plant and improvements to accomplish the purposes of the district and after an election is held to authorize the issuance of construction bonds and the levy of a tax to pay for the bonds, the board shall hold a public hearing to determine whether the taxes to pay the construction bonds and maintenance, operation, and administrative costs of the district shall be levied, assessed, and collected on:

- (1) the ad valorem basis;
- (2) the basis of assessment of specific benefits;
- (3) the basis of assessment of benefits on an equal sum per acre;

or

- (4) the ad valorem basis for part of the total tax or defined area or property and on the benefit basis for the other part of the tax or defined area or property. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 2, 3, 4, 5, as added.)

§ 51.503. Notice of Hearing

Notice of the time and place of the hearing and the proposition to be determined shall be published once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall be made not less than 10 days before the day of the hearing set in the notice. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 6, as added.)

§ 51.504. Conduct of Hearing

(a) At the hearing, any person who is a taxpayer in the district may appear and offer testimony to show which plan of taxation will be most conducive to equitable distribution of taxes.

(b) The hearing may be adjourned from day to day until all persons wishing to testify have been heard. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 7, 8, as added.)

§ 51.505. Order

(a) The board shall adopt the plan of taxation which will, in its judgment under the evidence, be most conducive to the equitable distribution of the district's tax.

(b) If the plan adopted by the board is made under the provisions of Section 51.512 of this code, the order shall specify the proportion of the tax which falls under each designated classification.

(c) The order of the board is final and cannot be reviewed or questioned in any court except on the ground of fraud or palpable and arbitrary abuse of discretion. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 9, 10, as added.)

§ 51.506. Changing Tax Plan

If after a tax plan is adopted the directors find that the best interest of the district and the necessity to maintain adequately and equitably the district's tax requires a change in the tax plan, the board may give no-

tice, hold a hearing, and determine a new plan in the manner provided in Sections 51.502–51.505 of this code. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 11, as added.)

§ 51.507. Effect of Sections 51.501–51.506 of Code

Nothing in Sections 51.501–51.506 of this code shall be held to alter provisions of this chapter relating to districts which have contracts with the United States or to alter or impair the provisions of this code relating to taxes levied to provide local improvements to a defined area which do not affect the entire district. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 12, as added.)

§ 51.508. Unlimited Authority to Collect Service Charges and Taxes

The provisions of this subchapter do not alter or impair the right of a district to make, establish, and collect maintenance and operation charges for service rendered; to levy and collect taxes to secure funds to maintain, repair, and operate all works and facilities; and to give and maintain proper service for the purposes of its organization. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 13, as added.)

§ 51.509. Lien Created; No Limitation

Taxes, charges, or assessments imposed by a district for maintenance and operation of works, facilities, and services of the district shall constitute a lien against the land to which the taxes, charges, or assessments have been established. No law providing limitation against actions for debt shall apply. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 14, as amended.)

§ 51.510. Purpose of Sections 51.511–51.530 of Code

The purpose of Sections 51.511–51.530 of this code is to give a district the flexibility of taxing power which will permit and cause the tax of the district to be equitably distributed and which will give the highest practicable degree of service under the peculiar physical and economic conditions of the district. To this end, these sections shall be liberally and sympathetically construed. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 2, as amended.)

§ 51.511. Authority to Adopt Alternative Plans of Taxation

A district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, shall adopt a tax plan under the alternative provisions of Sections 51.512–51.530 of this code either at the time of its creation or before the appointment of commissioners of appraisalment under this chapter. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 1, as amended.)

§ 51.512. Alternative Plans of Taxation

(a) The district's taxes for all purposes, except to pay the cost of preliminary surveys, may be levied, assessed, and collected on an adopted basis to be chosen from the alternatives provided in this section.

(b) The district's tax plan may be based on any one of the following:

(1) ad valorem basis;

(2) benefit basis;

(3) ad valorem basis to obtain a part or percentage of the total tax or to apply to a specific part of the district and benefit basis applied to the other part or percentage of the tax or to the remaining part of the district; or

(4) either ad valorem or benefit basis on designated property or defined areas of the district to pay for improvements, facilities, or

service peculiar to the defined part of the district and not generally and directly benefiting the district as a whole. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 3, as amended.)

§ 51.513. Adoption of Plan of Taxation

(a) Except as provided in Section 51.512(b)(4) of this code, before the commission of appraisal is appointed and the construction bonds are sold, the board shall adopt a proposed plan of taxation as provided in Sections 51.502–51.505 of this code.

(b) If the tax plan is not based wholly on the ad valorem basis or on the benefit basis, the order adopting the proposed plan shall specify the portion of the tax to be based on the ad valorem basis and the portion to be based on the benefit basis. The board also shall state the physical and economic reasons, the peculiar diverse local needs, or the comparative potential benefits of different areas of designated property in the district which make it necessary or equitable to levy all or part of the tax on a defined part of the district on the ad valorem or benefit basis. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 5, 6, as amended.)

§ 51.514. Notice of Adoption of Plan and Hearing

(a) After the tax plan is adopted, the board shall publish notice once a week for two consecutive weeks in one or more newspapers with general circulation in the county or counties in which the district is located.

(b) The notice shall state:

(1) that the tax plan has been adopted;

(2) that the plan is available for public inspection in the district's office;

(3) that a hearing on the plan will be held by the board at a specified place and at a particular time, which shall not be less than 15 days nor more than 20 days after the first publication of notice; and

(4) that all interested persons may appear and support or oppose all or part of the proposed tax plan and offer testimony. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 7, as amended.)

§ 51.515. Order Adopting Tax Plan

(a) After all persons have been heard, the board may approve the proposed tax plan or may change or modify the plan.

(b) The board shall adopt a tax plan which it considers, under the evidence before it, most equitably distributes the tax burden and conserves the public welfare.

(c) The board shall enter its order establishing the tax plan, and the plan shall become the basis for the assessment and collection of taxes until the district adopts a different plan.

(d) The order is not subject to judicial review except on the ground of fraud, palpable error, or arbitrary and confiscatory abuse of discretion.

(e) A new plan may be adopted if required to preserve equity of distribution in the manner provided for adopting the original plan; however, no change may be made in the tax plan which will impair the ability of the district promptly to meet all outstanding obligations of the district within the intent of Sections 51.434 and 51.437 of this code. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 8, 9, 10, as amended.)

§ 51.516. Obtaining Funds to Construct, Administer, Maintain, and Operate Improvements and Facilities in Defined Part of District

On adoption of the plan of taxation provided in Section 51.512(b)(4) of this code, the district, under the limitations of this subchapter, may apply separately, differentially, equitably, and specifically its taxing power and lien to a defined area or designated property to provide money to

construct, administer, maintain, and operate improvements and facilities peculiar to the defined area or the designated property. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 4, as amended.)

§ 51.517 Adoption of Tax Plan for Only Part of District

If a district adopts the tax plan and assumes the powers in Section 51.512(b)(4) of this code, or if required to conserve and protect the public welfare, the district, in the manner provided in Sections 51.518–51.524 of this code, may provide, pay for, maintain, and operate improvements, service, or facilities peculiar to a designated area or defined property which do not affect the whole district. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 11 (part), as amended.)

§ 51.518. Defining Area and Designating Property to be Benefited by Improvements; Adopting Tax Plan

(a) The board shall define the particular area to be taxed by metes and bounds or designate the property to be served, affected, and taxed.

(b) The board shall adopt a plan for improvements in the defined area or to serve the designated property in the manner provided in Sections 51.410–51.411 of this code.

(c) The board shall adopt a plan of taxation to apply to the defined area or designated property which may or may not be in addition to other taxes imposed by the district on the same area or property. The proportional tax or income contributions of the defined area or designated property and the proportional and equitable interest of the entire district shall be taken into consideration in imposing any tax to an area or piece of property. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 11 (part), 12 (part), as amended.)

§ 51.519. Notice and Hearing

The board shall give notice and hold a hearing in the same manner and for the same purpose as provided in Sections 51.514–51.515 of this code. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 12 (part), as amended.)

§ 51.520. Board's Order

At the hearing, if the board decides to define and serve the proposed separate tax area or separate designated property, it shall enter an order in the record, and if the proposal involves the issuance of bonds, the board shall call an election in the whole district. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 13 (part), as amended.)

§ 51.521. Procedure for Election

(a) The election shall conform to the provisions of this code relating to an election to authorize the issuance of construction bonds.

(b) The board shall submit the appropriate issues to the electors, and the issues may be submitted on the same ballot to be used in another election.

(c) The notice of election shall define the area to be designated and the plan of taxation to be applied. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 13 (part), as amended.)

§ 51.522. Election not Required in Separate Election Precinct

If proposed improvements are considered to be required to promote the public welfare or if the owners of the land in a defined area file a petition acknowledged as required for deeds requesting the district to provide improvements and assess a tax only in the defined area, it is not necessary to constitute the area a separate election precinct and have a separate election in that area. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 18, as amended.)

§ 51.523. Ballots

The ballot for an election under this subchapter shall be printed to provide for voting for or against substantially the proposition: "Designation of the area, issuance of bonds, and levy of a tax to retire the bonds." (39th Legis., G.L., Ch. 25, Sec. 130, sen. 19 (part), as amended.)

§ 51.524. Declaring Result and Issuing Order

If a majority of the electors approve the proposal, the board shall declare the result and, by order, shall establish the area and define it by metes and bounds or designate the specific property and shall fix the tax basis for the area or property. A certified copy of the order shall be recorded in the minutes of the district and shall constitute notice. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 19 (part), as amended.)

§ 51.525. Pledge of Faith and Credit

If at an election the electors approve the issuance of bonds and the levy of a tax which applies only to a defined area, the district may issue bonds which pledge only the faith and credit based on the property values in the defined area; however, the district may pledge the full faith and credit of the entire district under the condition of authorization in Section 51.529 of this code. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 17, as amended.)

§ 51.526. Election in Separate Election Precinct

(a) If the improvements to be provided in a defined area are considered peculiarly for the benefit of that area and not required to conserve the public or general welfare in the district as a whole, and if the proposed improvements in that area will require the imposition of a tax only on the property in the area, the defined area is constituted a separate election precinct in which a separate election shall be held to determine if the improvements will be provided and a separate tax levied.

(b) The election shall be held in the manner provided for issuance of bonds under this subchapter.

(c) If a majority of the electors in the defined area approve the propositions, the district shall provide money when necessary and shall provide the improvements and levy the tax.

(d) At an election in the defined area, each qualified elector of the district who owns property in the defined area may elect to vote in the area and not in the precinct of his residence. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 14, 15, 16, as amended.)

§ 51.527. Issuance of Bonds and Levy of Tax for Defined Area or Designated Property

(a) After the order is recorded, the district may issue its bonds to provide the specific plant, works, and facilities included in the plans adopted for the area or to serve the property and shall provide the plant, works, and facilities.

(b) In the appropriate case, the board shall levy, assess, and collect taxes on the property located in the defined area or on the designated property in conformity with the adopted tax plan. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 20 (part), as amended.)

§ 51.528. Contract to Provide Improvements, Facilities, and Services to Designated Property or Area

(a) Property or areas inside or outside the district may, by contract, be designated to obtain improvements, facilities, or service for the designated area or property.

(b) The designation shall be based on a written petition in conformity with the laws authorizing contracts by a petitioner or person owning, controlling, or governing the property or area to be designated.

(c) The board may make the designation in a contract to provide, administer, maintain, and operate the desired improvements, facilities, or service for the designated area or property, and the designated area or property shall be subject to being made the basis of the bonds and may be subject to a tax lien in amount to retire the obligations incurred by the district to provide the facilities, improvements, or service and to cover the expenses necessary to administer, maintain, and operate the improvements and facilities under the contract.

(d) The contract may not violate the law of this state or the United States and may not result in impairing a vested right or causing the district to fail to serve fully and permanently water demands in the district in the order of preference of uses.

(e) The contract may provide that one governing body may establish the contractual and statutory tax lien in behalf of the district and may levy, assess and collect the tax for and on behalf of the district.

(f) The district may not issue bonds pledging the full faith and credit of the district under this section or under Section 51.517 of this code without submitting the proposition to the electors of the whole district under the provisions of this subchapter or under the provisions authorizing the issuance of construction bonds. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 20 (part), 21, 22, 23, 24, 25 (part), as amended.)

§ 51.529. Authority of District

(a) If a majority of the electors in the whole district approve the proposal, the district may issue its bonds to provide the plant, improvements, and facilities peculiar to the defined area or designated property or peculiar to a contract for service and may pledge the full faith and credit of the district to pay for the bonds.

(b) The district shall have a lien on the property in the defined area or on the designated property and may levy, assess, and collect or have levied, assessed, and collected taxes in the area or on the property to protect the district from or to compensate any liability incurred on behalf of the defined area or designated property. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 25 (part), as amended.)

§ 51.530. Administrative Authority of Board

The board shall administer all business incident to the creation and operation of a defined area or service to designated property unless otherwise provided by contract. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 26, as amended.)

§ 51.531. Master District; Taxing Authority

A master district may levy and collect taxes, equitably distributed, which shall be in addition to other taxes which may be levied by the several districts constituting the master district. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 3 (part), as amended.)

§ 51.532. Taxes in Districts Consisting of a City, Town or Municipal Corporation

If a city, town, or municipal corporation is constituted a district operating under this chapter, taxes levied in the district may be assessed and collected in the manner provided in Sections 51.533–51.538 of this code. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 4 (part).)

§ 51.533. Order Fixing Rate of Taxation

(a) The board shall issue an order fixing the rate of taxation and levying a tax. The order shall be signed by the president and secretary of the district, and the district seal shall be attached.

(b) The board shall enter the order in their minutes and file a copy of the order with the secretary of the city, town, or municipal corporation.

(c) The secretary of the city, town, or municipal corporation shall record the order in a book kept in his office for that purpose and shall make and deliver a copy of the order to the assessor and collector of the city, town, or municipal corporation. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 4 (part).)

§ 51.534. Laws Governing the Assessment and Collection of Taxes

(a) A tax levy ordered under Section 51.532 of this code shall be entered on the tax rolls and shall be assessed and collected in the same manner as other municipal taxes.

(b) The collection of the tax shall be governed by the provisions of law governing the collection of taxes in the city, town, or municipal corporation.

(c) Officers of the city, town, or municipal corporation have the same duties in the collection of taxes as provided for the collection and accounting for municipal taxes. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 5.)

§ 51.535. Provisions of Chapter Inapplicable to District

If taxes are levied, assessed, and collected under Sections 51.533–51.538 of this code, the provisions of this chapter relating to assessment and collection of taxes do not apply to the district and it is not necessary for the district to appoint an assessor and collector. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 8.)

§ 51.536. Compensation of City Assessor and Collector

The board shall pay to the city assessor and collector and other city officers reasonable compensation for the services performed by them for the district. The amount of compensation shall be fixed in advance of the performance of the duties. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 7.)

§ 51.537. Assessor and Collector's Report

The assessor and collector shall make a report of collected taxes to the district depository on the last day of each month and shall deposit the collected taxes in the depository. A copy of the report shall be filed in the office of the board. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 6.)

§ 51.538. Election Required

Taxes levied, bonds issued, and indebtedness incurred by a district operating under Sections 51.533–51.538 of this code are subject to the provisions of the constitution and this chapter which require an election to authorize tax levies, bonds, and indebtedness. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 9.)

[Sections 51.539 to 51.560 reserved for expansion]

SUBCHAPTER M. TAXATION ON THE AD VALOREM BASIS

Section 51.561. Assessment of District Property

The assessor and collector shall assess all taxable property in the district. (39th Legis., G.L., Ch. 25, Sec. 55, sen. 1.)

§ 51.562. Law Governing Property Subject to Taxation

The property subject to taxation in the district shall be determined by and governed by the law relating to taxation for state and county purposes and these laws shall apply unless otherwise provided. (39th Legis., G.L., Ch. 25, Sec. 55, sen. 2.)

§ 51.563. Rendition of Property

(a) The assessor and collector shall compile a record of all taxpayers and those subject to tax in the district and all taxable property and the name and post-office address of the owners.

(b) On or before the first day of April of each year, the assessor and collector shall furnish to each taxpayer and to each owner of taxable property in the district a blank form for the rendition of property for taxation. The form may be delivered or mailed to the owner.

(c) Failure to receive the form furnished by the assessor and collector shall not excuse anyone from the duty of making and filing a statement and rendition. Any property owner failing to receive the form shall call at the office of the district for it.

(d) Each owner of taxable property in the district shall file in the office of the assessor and collector a full, accurate, and complete statement under oath of all property owned by him in the district which is subject to taxation.

(e) The statement shall include the true value of all property listed and owned by the party rendering it. In rendering land improvements and all other property, the statement shall show both the market value and the real value.

(f) The statement shall be filed on or before March 31 of each year. (39th Legis., G.L., Ch. 25, Sec. 56; and Sec. 58, sen. 5.)

§ 51.564. Failure or Refusal to File Rendition

A person who fails or refuses to file, under oath, a true, full, and complete statement and rendition of all property owned by him which is subject to district taxation shall be precluded from making an objection, protest, or contest against the assessment made against him by the district. (39th Legis., G.L., Ch. 25, Sec. 57, sen. 1.)

§ 51.565. Property Owner's Oath

(a) The statement and rendition shall have attached to it substantially the following oath:

"I _____, on my oath, state that the foregoing statement and rendition is a true, full, and complete statement of all property owned by me, for whom this rendition is made or by whom this rendition is made, subject to taxation in the district. I have correctly stated the description, location, and value thereof and of each item thereof."

(b) The statement and oath shall be signed and made before an officer authorized by law to take oaths and acknowledgments.

(c) The officer taking the oath shall place on the oath his certificate substantially as follows: "Subscribed and sworn to by _____ before me this the ____ day of _____, _____." The officer also shall attach his official seal and signature. (39th Legis., G.L., Ch. 25, Sec. 57, sen. 2, 3, 4.)

§ 51.566. Agent May File Rendition Statement

The statement and rendition may be filed by any authorized agent of the owner of any property, but the agent shall state in the statement and rendition that he is filing as an agent. (39th Legis., G.L., Ch. 25, Sec. 57, sen. 5.)

§ 51.567. Verification of Rendition; Rendition of Property not Already Rendered

(a) The assessor and collector shall check, investigate, and verify each rendition of property and shall note on the rendition in writing his report. He shall include in the report any property omitted from the rendition with his estimate of the value of all the property not rendered at its full value or if the property is rendered at more than its full value.

(b) The assessor and collector shall make and file a rendition of all property in the district which is not rendered for taxation and shall file the rendition before June 1 of each year or as soon after that time as possible.

(c) In making the rendition of unrendered property, the assessor and collector shall include all property which is not rendered by the owner or his agent, and if the owner is unknown, the property shall be listed as being owned by "owner unknown."

(d) Property whose owner is unknown shall be taxed and taxes collected even though the owner is unknown and may be assessed against a person who is not the owner. (39th Legis., G.L., Ch. 25, Sec. 58, sen. 1, 2, 3, 4, 6.)

§ 51.568. Rendition of Property at a Later Date

On creation of the district, if it becomes necessary to have property rendered for taxation at a later date than provided for regular assessment, the board shall fix the time for the rendition to be made and the other necessary functions connected with it. After the first year, the assessments shall be made as provided in this subchapter. (39th Legis., G.L., Ch. 25, Sec. 60.)

§ 51.569. Authority to Administer Oaths

The assessor and collector may administer oaths to fully carry out his duties and the assessment of property for taxation. (39th Legis., G.L., Ch. 25, Sec. 59, sen. 1.)

§ 51.570. Laws and Penal Statutes Applicable to Rendition of Property

The laws and penal statutes of this state providing for rendition of property for state and county purposes and providing penalties for making false oaths and for failing to render property shall apply to rendition of property by a district except as otherwise provided. (39th Legis., G.L., Ch. 25, Sec. 59, sen. 2.)

§ 51.571. Appointment of Board of Equalization

(a) The board, at their first meeting or as soon after that time as practicable and each following year, shall appoint three commissioners to the board of equalization.

(b) Each person appointed to the board of equalization shall be a qualified property taxpaying elector of the district. (39th Legis., G.L., Ch. 25, Sec. 61 (part).)

§ 51.572. First Meeting of Board of Equalization

(a) At the same meeting at which the first board of equalization is appointed, the board shall fix a time for the meeting.

(b) The board of equalization shall convene at the time designated by the board to receive all assessment lists or books of the assessor and collector for examination, correction, equalization, appraisal, and approval. (39th Legis., G.L., Ch. 25, Sec. 61 (part).)

§ 51.573. Oath of Board of Equalization

(a) Before the board of equalization begins to perform its duties, each commissioner shall take and subscribe 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 in the district as shown by the assessment lists or books of the assessor and collector for the district and add all property not included of which I have knowledge."

(b) The oath shall be recorded in the minutes and shall be kept by the secretary of the board. (39th Legis., G.L., Ch. 25, Sec. 62.)

§ 51.574. Compensation of Board of Equalization

Members of the board of equalization shall receive the compensation fixed by the board. (39th Legis., G.L., Ch. 25, Sec. 66, sen. 8.)

§ 51.575. Secretary of Board of Equalization

The secretary of the board shall act as secretary of the board of equalization at all meetings and shall keep a permanent record of all the proceedings of the board of equalization. (39th Legis., G.L., Ch. 25, Sec. 61 (part).)

§ 51.576. Annual Meeting Date of Board of Equalization

The board of equalization shall convene on the first Monday in June of each year and shall complete its work by September 1 or as soon after that time as possible. (39th Legis., G.L., Ch. 25, Sec. 63.)

§ 51.577. Powers and Duties of Board of Equalization

(a) At the time the board of equalization convenes, the assessor and collector shall bring to the meeting all assessment lists and books for examination so that the board of equalization may see whether or not each person has rendered his property at its full value.

(b) The board of equalization may send for persons and papers, administer oaths to persons who testify, and ascertain the value of all property subject to taxation.

(c) The board of equalization may raise or lower the valuation of any of the property, may correct any and all errors of assessments and renditions, and may add any unrendered property to the tax rolls.

(d) The board of equalization shall equalize as nearly as possible the value of all property rendered for taxation and fix the value of it for taxation. (39th Legis., G.L., Ch. 25, Sec. 64.)

§ 51.578. Complaints Filed with Board of Equalization

Any person may file with the board of equalization a complaint relating to the rendition and assessment of his own property or to any other property and the board of equalization shall consider all complaints. (39th Legis., G.L., Ch. 25, Sec. 65, sen. 1.)

§ 51.579. Lists of Persons and Property not on Tax Rolls Submitted to Board of Equalization

(a) Anyone may file with the board of equalization lists of property which is omitted from the tax rolls, and the board of equalization shall add to the tax rolls any property which has been omitted from them.

(b) The assessor and collector shall file with the board of equalization a list of all persons who fail or refuse to render their property. (39th Legis., G.L., Ch. 25, Sec. 65, sen. 2, 3.)

§ 51.580. Hearing

After the board of equalization has passed on the renditions, it shall fix a date to hear protests from persons whose renditions have been raised. (39th Legis., G.L., Ch. 25, Sec. 66, sen. 1.)

§ 51.581. Notice of Hearing

At least 10 days before the hearing, the secretary shall mail written notice of the time and place of the hearing to all persons whose assessments have been raised. Failure to give the notice does not relieve the owner of the property of his duty to take notice of the hearing and to attend. (39th Legis., G.L., Ch. 25, Sec. 66, sen. 2, 3, 4.)

§ 51.582. Hearing Procedure

At the hearing, the board of equalization shall hear and consider all complaints and protests, reconsider the valuation of all property whose valuation is raised by them, and finally fix the valuation on all property. (39th Legis., G.L., Ch. 25, Sec. 66, sen. 5.)

§ 51.583. Final Approval of Tax Rolls

(a) After the assessor and collector makes his final tax rolls, the board of equalization shall meet and consider the tax rolls and make necessary corrections and endorse their approval on the rolls.

(b) The action of the board of equalization in approving the tax rolls is final and is not subject to revision by the board of equalization or any other tribunal. (39th Legis., G.L., Ch. 25, Sec. 66, sen. 6, 7.)

§ 51.584. Preservation of Official Documents

(a) The assessor and collector shall prepare the tax rolls in duplicate and one copy shall be retained in his office, and one copy shall be filed in the district office.

(b) The minutes of the board of equalization, renditions, protests, and other papers filed in connection with the rendition of property and preparation of the tax rolls shall be preserved as official records in the district office. (39th Legis., G.L., Ch. 25, Sec. 67.)

§ 51.585. Permanent Finance Ledger

(a) The board shall provide a permanent finance ledger in which the assessor and collector shall be charged with the total assessment of property shown on the tax rolls.

(b) Credit shall be entered in the permanent finance ledger of all collections paid to the depository.

(c) The permanent finance ledger and the books and accounts of the assessor and collector shall be audited by the board semiannually on January 1 and July 1 of each year and at any other times ordered by the board. (39th Legis., G.L., Ch. 25, Sec. 68.)

§ 51.586. Date Taxes Are Due

All taxes are due and payable on October 1 of each year and shall be paid on or before January 31 of the following year. (39th Legis., G.L., Ch. 25, Sec. 69.)

§ 51.587. Delinquent Taxes

(a) All taxes which are not paid by January 31 become delinquent on February 1 of each year and shall be and remain a lien on the property for which they were assessed although the owner is unknown, the property is listed under the name of a person who is not the owner, or the ownership has changed.

(b) The property may be sold under a judgment of a court for all taxes, interest, penalty, and costs assessed against the property at any time after taxes become delinquent.

(c) The district may file suit to collect the delinquent taxes, and if the owner of the property is unknown, the suit may be filed against the unknown owner and the property sold under judgment of the court.

(d) Taxes are not barred by any statute of limitation, and no law providing for a period of limitation as to debts or actions shall apply to these taxes. (39th Legis., G.L., Ch. 25, Sec. 70.)

§ 51.588. Interest and Penalty on Delinquent Taxes

All delinquent taxes shall have a penalty of 10 percent of their amount added to them, which shall accrue at the time the taxes become delinquent. The delinquent taxes also shall bear interest at the rate of six

percent a year from the date on which they become delinquent. (39th Legis., G.L., Ch. 25, Sec. 71.)

§ 51.589. Preparing and Filing Delinquent Tax Roll

The assessor and collector shall prepare and file with the board a delinquent tax roll on or before April 1 of each year. The delinquent tax roll shall show all charges on the tax rolls which have not been paid. (39th Legis., G.L., Ch. 25, Sec. 72, sen. 1.)

§ 51.590. Notice of Delinquent Tax List

(a) The board shall publish the delinquent tax list once a week for two weeks in a newspaper published in the county in which the district or part of the district is located. If no newspaper is published in the district, the notice shall be published in a newspaper outside the district.

(b) The delinquent tax list shall include:

- (1) the name of the owner;
- (2) a description of the property; and
- (3) the total amount of taxes due.

(c) The newspaper which publishes the notice shall be paid a reasonable fee fixed by agreement; however, the fee shall not be more than 20 cents for each rendition or tract of land using not more than three lines single column.

(d) The publisher of the newspaper which publishes the notice shall file in the district office a copy of each issue of the newspaper containing the notice with an affidavit of publication attached.

(e) The notice provided in this section is intended to be for the information of all taxpayers and shall not be held to be requisite to filing a suit for the collection of taxes. The suit may be filed without publishing notice. (39th Legis., G.L., Ch. 25, Sec. 72, sen. 2, 3, 4, 5, 6, 7, 8.)

§ 51.591. Attorney to File Suits to Collect Delinquent Taxes

(a) The board shall on or before April 1 of each year employ an attorney to file suits to collect all delinquent taxes.

(b) The attorney is entitled to receive a fee of 10 percent of the amount of all delinquent taxes collected or paid after suits are filed. The fees shall be charged as court costs. (39th Legis., G.L., Ch. 25, Sec. 73, sen. 1, 2.)

§ 51.592. Delinquent Tax Suit

(a) A delinquent tax suit shall be filed as any other civil suit.

(b) If the owner of the property against which delinquent taxes are owed is unknown, the suit may be filed against the unknown owner and citation published in the manner provided for state and county taxes.

(c) All tax suits shall be for the collection of the amount due and foreclosure of the lien on the property against which the delinquent taxes are assessed.

(d) Costs of the suit shall be taxed in the order of sale. (39th Legis., G.L., Ch. 25, Sec. 73, sen. 3, 4, 5 (part), 6.)

§ 51.593. Sale of Property to Pay Delinquent Taxes

(a) Property on which delinquent taxes are owed shall be sold under order of sale.

(b) If more property is covered by the lien fixed by the judgment than is necessary to secure the amount due, the property may be divided and sold in parcels as necessary to collect the amount due.

(c) The officer executing the order of sale shall make deeds to the purchaser which shall be held to vest a good and perfect title in the purchaser, subject to contest only for fraud. (39th Legis., G.L., Ch. 25, Sec. 73, sen. 5 (part), 7, 8.)

§ 51.594. Redemption of Property on Which Delinquent Taxes are Owed

A person may redeem property on which delinquent taxes are owed at any time before the date of sale under a judgment by paying the taxes and all penalties, interest, attorney's fees, and court costs which have accrued. (39th Legis., G.L., Ch. 25, Sec. 74.)

§ 51.595. Authorizing Taxes to be Assessed and Collected by Assessor and Collector of County or City

(a) A majority of the board may adopt a resolution to have the district's taxes assessed and collected by the county assessor and collector or by the city assessor and collector of an incorporated city or town inside the boundaries of the district.

(b) The taxes shall be assessed and collected by the county or city assessor and collector in the manner provided by the board and turned over to the treasurer of the district. (52nd Legis., Ch. 218, Sec. 1.)

§ 51.596. Compensation of County or City Assessor and Collector

If the county or city assessor and collector is required to assess and collect the taxes of the district, he is entitled to receive one percent of the total taxes shown on the completed roll for assessing the taxes and one percent for collecting the taxes. The compensation for collection of delinquent taxes shall be five percent of the amount collected. (52nd Legis., Ch. 218, Sec. 2.)

§ 51.597. Alternate Method for Assessment, Equalization, and Collection of Taxes

Instead of having taxes assessed, equalized, and collected as provided in Sections 51.561-51.596 of this code, the board may enter into a contract for this service with the commissioners court of each county in which taxable property of the district is located. (39th Legis., G.L., Ch. 25, Sec. 33, sen. 1 (part), as amended.)

§ 51.598. Consideration and Costs under Contract

(a) The consideration for services rendered under a contract entered into under Section 51.597 of this code shall be computed as fees of office of the county officers rendering the services under the contract.

(b) The service charge to be paid by the district under the contract may not be more than the reasonable cost which would be added to the county's cost for assessing and collecting taxes if there were no contract.

(c) If the service may be accomplished by an extension of an ad valorem tax levy by the district on the rolls to be used for state and county taxes, the cost shall not be more than \$1,800 a year for the assessment and equalization of taxes and shall not be more than \$1,500 a year for the collection of and accounting for the taxes, together with other acts which are lawful duties incident to collecting delinquent taxes. (39th Legis., G.L., Ch. 25, Sec. 33, sen. 1 (part), as amended.)

§ 51.599. County Assessor and Collector's Bond

(a) The county assessor and collector shall be considered the assessor and collector of the district, and he may be required by the district to execute a surety company bond payable to the district. The premium on the bond shall be paid by the district.

(b) In the absence of a separate bond, the official bond of the county assessor and collector shall inure ratably to the benefit of the district. (39th Legis., G.L., Ch. 25, Sec. 33, sen. 1 (part), as amended.)

§ 51.600. Tax Assessment and Collection Procedure under Contract

(a) On entering into a contract under Section 51.597 of this code, the county assessor and collector shall perform for the contracting district

the same duties which he is required by law to perform in assessing and collecting state and county taxes.

(b) Before the district requires service under the contract, it shall levy an ad valorem tax or fix the specific assessment of benefits or tax per acre for each year for which service is to be rendered under the contract.

(c) Within the time which will not delay the preparation of the county's tax rolls, the district shall deliver to the county tax assessor and collector a certificate showing the rate or amount of the district's tax levy or specific assessment for the current taxing year.

(d) The county assessor and collector shall pay to the district or the district depository all money collected by him for the district during any calendar month and shall furnish to the district on or before the fifteenth day of the next succeeding month an itemized statement of the collections made in the previous month, unless the contract provides for more frequent accounting.

(e) The district shall keep a finance ledger in which the full amount of the completed tax rolls shall be charged to the county assessor and collector and the amount of taxes collected and paid over to the district shall be entered. (39th Legis., G.L., Ch. 25, Sec. 33, sen. 2, 3, 5, as amended.)

§ 51.601. Audit

(a) The district under the contract may elect to require the county auditor to audit annually the collections and accounts of the county assessor and collector and furnish the district with a report of his finding.

(b) The district shall pay to the county the actual cost of the audit, not to exceed \$500. (39th Legis., G.L., Ch. 25, Sec. 33, sen. 4, as amended.)

[Sections 51.602 to 51.630 reserved for expansion]

SUBCHAPTER N. TAXATION ON THE BENEFIT BASIS

Section 51.631. Method of Taxation for District under Contract with United States

A district which is operated under contract with the United States may adopt the plan to levy and collect taxes on the benefit basis instead of the ad valorem basis and determine taxes under the provisions of Sections 51.632-51.634 of this code. (39th Legis., G.L., Ch. 25, Sec. 131, sen. 1 (part).)

§ 51.632. Assessment Record

When necessary, the board shall apportion and assess the benefits conferred on property in the district and shall make a record showing the amount and value of benefits to accrue on property in the district and the amount of taxes to be levied and collected on the property. No taxes assessed or adjudged against the property may be more than the benefit which accrues to the property from the organization, operation, and maintenance of the district and its improvements. (39th Legis., G.L., Ch. 25, Sec. 131, sen. 1 (part).)

§ 51.633. Notice of Taxes

After the board makes the record, it shall mail to each property owner whose name appears in the record notice of the amount of taxes levied on his property and the date and place at which the property owner may appear and contest the correctness and equitableness of the tax. (39th Legis., G.L., Ch. 25, Sec. 131, sen. 2.)

§ 51.634. Decision after Hearing

After the hearing, the board shall determine whether or not the tax is equitable and shall sustain, reduce, or increase the tax to an amount which in the board's judgment is equitable. The decision of the board is final. (39th Legis., G.L., Ch. 25, Sec. 131, sen. 3.)

§ 51.635. Method of Taxation for District not under Contract with the United States

If a district which is not operating under contract with the United States adopts the benefit basis plan for taxation, the levy, assessment, equalization of property values, and collection of taxes shall be made in the manner provided in Sections 51.636-51.648 of this code. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 1.)

§ 51.636. Commissioners of Appraisalment

As soon as practicable after the approval of the engineer's report and the adoption of the plan for improvements to be constructed, the board shall appoint three disinterested commissioners of appraisalment. The commissioners shall be freeholders but not owners of land within the district which they represent. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 2.)

§ 51.637. Compensation of Commissioners

On approval by the board, each commissioner is entitled to receive \$10 a day for each day he actually serves, plus all necessary expenses. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 7 (part).)

§ 51.638. Notice of Appointment and Meeting

Immediately after the commissioners of appraisalment are appointed, the secretary of the board shall give written notice to each appointee of his appointment and of the time and place of the first meeting of the commissioners. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 3.)

§ 51.639. First Meeting of Commissioners

(a) The commissioners shall meet at the time specified in the notice from the secretary or as soon after that time as possible.

(b) At the meeting the commissioners shall take and subscribe an oath to discharge faithfully and impartially their duties as commissioners and make a true report of the work which they perform. They shall then organize by electing one commissioner as chairman and one commissioner as vice chairman.

(c) The secretary of the board or, in his absence, a person appointed by the board shall serve as secretary to the commissioners of appraisalment and shall furnish to the commissioners any information and assistance which is necessary for the commissioners to perform their duties. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 4.)

§ 51.640. Assistance for Commissioners

Within 30 days after the commissioners qualify and organize, they shall begin to perform their duties, and in the exercise of their duties they may obtain legal advice and information relative to their duties from the district's attorney and, if necessary, may require the presence of the district engineer or one of his assistants at any time and for as long as necessary to properly perform their duties. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 5.)

§ 51.641. Viewing Land and Other Property and Improvements in District

The commissioners shall view the land in the district which will be affected by the district's reclamation plans and the public roads, railroads, rights-of-way, and other property and improvements located in the district and shall assess the amount of the benefits and damages that will accrue to the land, roads, railroads, rights-of-way or other property or improvements in the district from the construction of the improvements. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 6.)

§ 51.642. Commissioners Report

(a) The commissioners shall prepare a report and file it with the secretary of the board. The report shall be signed by at least a majority of the commissioners.

(b) The report shall include:

- (1) the name of the owner of each tract of land which is subject to assessment;
- (2) a description of the property;
- (3) the amount of the benefits or damages assessed on each tract of land;
- (4) the time and place at which a hearing will be held on the report to hear objections; and
- (5) the number of days each commissioner served and the actual expenses incurred during his service as commissioner.

(c) The day set in the report for the hearing may not be later than 20 days after the report is filed. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 7 (part), 8.)

§ 51.643. Notice of Hearing

(a) After the commissioners' report is filed, the secretary of the board shall publish notice of the hearing on the report at least once a week for two consecutive weeks in a newspaper published in each county in which part of the district is located. The secretary shall mail written notice of the hearing to each person whose property will be affected if his address is known.

(b) The notice shall state:

- (1) the time and place of the hearing;
- (2) that the commissioners' report has been filed;
- (3) that interested persons may examine the report and make objections to it; and
- (4) that the commissioners will meet at the time and place indicated to hear and act on objections to the report.

(c) On the day of the hearing, the secretary shall file in his office the original notice and his affidavit stating the manner of publication, the names of persons to whom notice was mailed, and the names of persons to whom notice was not mailed because the secretary by reasonable diligence could not ascertain their addresses. Copies of the notice and affidavit also shall be filed with the commissioners of appraisal and the clerk of the commissioners court. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 14.)

§ 51.644. Hearing

(a) At or before the hearing on the commissioners' report, an owner of land that is affected by the report or the reclamation plans may file exceptions to all or part of the report.

(b) At the hearing, the commissioners shall hear and make determinations on the objections submitted and may make necessary changes and modifications in the report for objections which are sustained. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 9.)

§ 51.645. Witnesses at the Hearing

At the hearing, interested parties may appear in person or by attorney and are entitled, on demand, to have the chairman of the commissioners of appraisal issue process for witnesses. The commissioners shall have the same power as a court of record to enforce the attendance of witnesses. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 16.)

§ 51.646. Costs of Hearing

The commissioners may adjudge and apportion the costs of the hearing in any manner they consider equitable. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 11.)

§ 51.647. Commissioners' Decree

(a) After the commissioners have made a final decision, they shall issue a decree confirming their report insofar as it remains unchanged and shall approve and confirm changes in the report.

(b) The final decree and judgment of the commissioners shall be entered in the minutes of the board, and certified copies shall be filed as a permanent record with the county clerk of each county in which part of the district is located and shall be notice to all persons of the contents and purpose of the decree.

(c) The findings of the commissioners which relate to benefits and damages to land and other property in the district are final and conclusive. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 10, 12, 13.)

§ 51.648. Effect of Final Judgment and Decree

The final judgment and decree of the commissioners shall form the basis for all taxation in the district. Taxes shall be apportioned and levied on each tract of land and other real property in the district in proportion to the net benefits to the land or other property stated in the final judgment and decree. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 15.)

§ 51.649. Fixing Tax as Equal Sum on Each Acre

At the election at which the plan of taxation is determined or at any other time before the bonds are issued, the voters of any district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may vote on the proposition of whether or not benefits for tax purposes shall be fixed as an equal sum on each acre of land that is irrigated or to be irrigated by gravity flow from the canal system of the district. The benefit per acre shall be voted on as it is applied to land in the district that can be irrigated by gravity flow from the irrigation system and also the benefit to land in the district that cannot be irrigated by gravity flow. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 1, 2.)

§ 51.650. Election

(a) If the board desires to submit the question of whether or not to adopt the method of assessing benefits provided in Section 51.649 of this code, it shall order an election to be held in the district and shall submit the proposition in the manner provided for other district elections.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "Uniform assessment of benefits of \$_____ per acre on all irrigable land in the district, and the assessment of \$_____ per acre on all nonirrigable land in the district."

(c) The board shall determine the amounts to fill the spaces in the proposition. The amount of charge per acre may be found by dividing the number of acres of land into the amount of debt to be incurred by the district in providing for irrigation.

(d) If a majority of the persons voting in the election vote in favor of the proposition, it shall be adopted. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 3, 4, 5, 6, 7, 9.)

§ 51.651. Excluding Nonirrigable Land from District

If the owner of land which is classed nonirrigable under the uniform acreage valuation objects to the amount of charges fixed against him by the order calling the election or by the result of the election, he may have his nonirrigable land excluded from the district by filing an application for exclusion as provided by law within 10 days after the election is held. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 8.)

§ 51.652. Setting Annual Value of Land Unnecessary

If the district adopts the uniform acreage valuation for taxation, the valuation shall be applied to all land, and it is not necessary for the assessor and collector or the board of equalization to annually fix the value of the land or equalize the values. It is also unnecessary for the board to appoint a commission to ascertain or fix the value of the improvement to particular land. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 10.)

§ 51.653. Preparing Tax Rolls

(a) The board of equalization shall examine the renditions and tax rolls to determine if all property subject to taxation appears on the tax rolls under the proper classification. The board of equalization shall add to the tax roll any property which was left off or was not rendered for taxation and shall examine, correct, and certify the tax roll.

(b) Any property owner may protest to the board of equalization that his property has not been properly classified. The board of equalization shall consider the protest and enter its findings in the minutes in the manner provided by law. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 11, 12.)

§ 51.654. Rendition of Property

Land which is taxed on the uniform acreage valuation shall be rendered for taxation as either subject to irrigation or not subject to irrigation. When land is rendered, the value need not be stated, and it is unnecessary for the person rendering the property to include the value of the land in an affidavit or for the assessor and collector to set a value on the land. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 13 (part).)

§ 51.655. Law Governing Administration of Benefit Tax Plan

The rate of taxation, the collection of taxes, the assessment of property, and the rendition of property for taxation shall be governed by the law relating to ad valorem taxes. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 13 (part).)

§ 51.656. Irrigating Nonirrigable Land

If land which is classed as nonirrigable is later irrigated by the district, before the owner of the land receives the water, he shall pay to the district an amount equal to the entire amount that would have been charged to the owner if the land had been originally classed as irrigable. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 14.)

§ 51.657. Taxation in District Constructing Levees or Drainage Systems

(a) A district created to construct levees or works and plants to protect from overflow or created to construct drainage systems may adopt the plan of assessing benefits at an equal sum on each acre of land in the district in the manner provided in Sections 51.650-51.656 of this code.

(b) The proposition included in the election order shall be printed to provide for voting for or against: "Uniform assessment of benefits for _____ purposes." (39th Legis., G.L., Ch. 25, Sec. 134.)

[Sections 51.658 to 51.690 reserved for expansion]

SUBCHAPTER O. ADDING AND EXCLUDING TERRITORY AND CONSOLIDATING DISTRICTS

Section 51.691. Excluding Land from District

After a district is organized, preliminary surveys are completed, and plans adopted by the district for the construction of a plant and improvements, and before the board calls an election for the authorization of construction bonds, the board must exclude land or other property from the district under the provisions of Sections 51.692-51.701 of this code, if the exclusions are practicable, just, or desirable. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 1 (part), as amended.)

§ 51.692. Hearing to Announce Proposed Exclusions and to Receive Petitions

Before the election to authorize construction bonds, the board shall give notice of a time and place of a hearing to announce its own conclusions relating to land or other property to be excluded and to receive petitions for exclusion of land or other property. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 1 (part), as amended.)

§ 51.693. Notice of Hearing

(a) The board shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 15 days and not more than 40 days before the day of the hearing.

(b) The notice shall advise all interested property owners of their right to present petitions for exclusions and to offer evidence in support of the petitions and their right to contest any proposed exclusion based on either a petition or the board's own conclusions and to offer evidence in support of the contest. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 2, 3, 4, 5, as amended.)

§ 51.694. Petition

(a) A petition for exclusion of land must accurately describe by metes and bounds the land to be excluded. A petition for exclusion of other property must describe the property to be excluded for identification.

(b) A petition for exclusion shall be filed with the district at least 10 days before the hearing and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds shall be considered. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 6, 7, 8, as amended.)

§ 51.695. Grounds for Exclusion

Exclusions from the district may be made on the grounds that:

(1) to retain certain land or other property within the district's taxing power would be arbitrary, would be unnecessary to conserve the public welfare, would impair or destroy the value of the property desired to be excluded, and would constitute the arbitrary imposition of a confiscatory burden;

(2) to retain any given land or other property in the district and to extend to it, either presently or in the future, the benefits, service,

or protection of the district's facilities would create an undue and uneconomical burden on the remainder of the district; or

(3) the land desired to be excluded cannot be bettered as to conditions of living and health, or served with water, or protected from flood, or drained, or freed from interruption of traffic caused by excess of water on the roads, highways, or other means of transportation serving the land, or otherwise benefited by the district's proposed improvements. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 9, 10, 11, as amended.)

§ 51.696. Hearing Procedure

The board may adjourn the hearing from one day to another and until all persons desiring to be heard are heard. The board immediately shall specifically describe all property which it proposes to exclude on its own motion and shall hear first any protests and evidence against exclusions proposed on the board's own motion. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 12, 13, as amended.)

§ 51.697. Order Excluding Land

After considering all engineering data and other evidence presented to it, the board shall determine whether the facts disclose the affirmative of the propositions stated in Subdivision (1) or (2) or, if appropriate, in Subdivision (3) of Section 51.695 of this code. If the affirmative exists, the board shall enter an order excluding all land or other property falling within the conditions defined by the respective subdivisions and shall redefine the boundaries of the district in the order to embrace all land not excluded. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 14, as amended.)

§ 51.698. Suit to Review, Etc.

Any person owning an interest in land affected by the order may file a petition within 20 days after the effective date of the order to review, set aside, modify, or suspend the order. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 15, as amended.)

§ 51.699. Venue of Suit

The venue in any action shall be in any district court which has jurisdiction in the county in which the district is located. If the district includes land in more than one county, the venue shall be in the district court having jurisdiction in the county in which the major portion of the acreage of the land sought to be excluded from the district is located. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 16, 17, as amended.)

§ 51.700. Trial Procedure

(a) A suit to review, modify, suspend, or set aside the order of the board shall be a trial de novo as that term is understood in an appeal from a justice of the peace court to a county court. The trial shall be strictly de novo with no presumption of validity or reasonableness or presumption of any character in favor of the order.

(b) The decision shall be made on a preponderance of the evidence and facts found in the trial as in other civil cases, independently of any action taken by the board.

(c) The procedure for the trial and the determination of the orders and judgments to be entered shall be governed solely by the rules of law, evidence, and procedure of the state courts according to the constitution, statutes, and rules of procedure for the trial of civil actions.

(d) The so-called "substantial evidence" rule enunciated by the courts for orders of other administrative or quasi-judicial agencies shall not apply in the trial. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 18, 19, 20, as amended.)

§ 51.701. Appeal

A person may appeal from the judgment or order of a district court in a suit brought under the provisions of Sections 51.698–51.700 to the court of civil appeals and supreme court as in other civil cases in which the district court has original jurisdiction. The appeal is subject to the statutes and rules of practice and procedure in civil cases. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 21, as amended.)

§ 51.702. Exclusion of Nonagricultural and Nonirrigable Land from the District

After the district is organized, acquires facilities with which to function as an irrigation district, and votes, issues, and sells bonds for the purposes for which the district was organized, land within the district subject to taxation which is not agricultural land or cannot be irrigated in a practicable manner may be excluded from the district by complying with the provisions of Sections 51.703–51.713 of this code. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), as amended.)

§ 51.703. Prerequisite to Application for Exclusion

The owner of land in the district which is not agricultural land or cannot be irrigated in a practicable manner may apply for its exclusion from the district if all taxes levied and assessed by the district on the land to be excluded have been fully paid, including all bond tax and flat water rate assessment. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), as amended.)

§ 51.704. Substituting Land of Equal Acreage and Value

Land which can be irrigated in a practicable manner of at least equal acreage and equal value to the land being excluded must be added to the district simultaneously with the exclusion of the nonagricultural or nonirrigable land. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), as amended.)

§ 51.705. Securing Application to Substitute Land

The board may require an owner of land in the district who has applied for the exclusion of his nonagricultural or nonirrigable land from the district to procure an application of the owner of land adjoining the boundaries or the canals of the district, and capable of being irrigated in a practicable manner from the facilities of the district, for inclusion in the district of his land in an amount and value at least equal to the land which is to be excluded under the application of the owner of nonagricultural or nonirrigable land. Each application shall set forth the facts concerning the land to be excluded from and the land to be added to the district, including evidence of their reasonable market value. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), 2 (part), as amended.)

§ 51.706. Application of Owner of New Land to Be Substituted

The owner of the new land to be added shall submit an application setting forth that the owner of the new land assumes the payment of all taxes to be levied on his land by the district after the date the land is added to the district. The application also shall set forth an agreement by the owner of the new land that the land will be subject to future taxes for bond tax and flat rate and all other assessments levied and assessed by the district as though the land had been incorporated originally in the district. The application also shall contain an agreement by the owner of the new land that the land will be subject to the same liens and provisions as all other land in the district and subject to the statutes governing all other land in the district. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), as amended.)

§ 51.707. Consent of Outstanding Bondholders

(a) The board shall communicate the contents of the applications to exclude nonagricultural or nonirrigable land and to include an equal amount of irrigable land to the holders of outstanding bonds voted, issued, sold, and delivered by the district and payable from taxes levied on property in the district.

(b) If the consent in writing of 95 percent or more of the bondholders to the plan is filed with the board, the board may hold a hearing on the applications. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), 2 (part), as amended.)

§ 51.708. Notice of Hearing on Applications

The board shall give notice of the hearing on the applications by publishing the time, place, and nature of the hearing one time in a newspaper published in a county in which all or part of the district is located. The newspaper must have been published regularly for more than 12 months preceding the date of the publication of the notice and must have circulation in the district. The notice shall be published not less than 10 days nor more than 20 days before the date of the hearing. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 2 (part), as amended.)

§ 51.709. Hearing Procedure

The board shall hear all interested parties and all evidence in connection with the applications. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 3 (part), as amended.)

§ 51.710. Board's Resolution to Substitute Land

If the board finds that all the conditions provided for the exclusion of land and inclusion of other land in the district exist, it may adopt and enter in its minutes a resolution to exclude land which is nonagricultural or nonirrigable in a practicable manner and include land which may be irrigated from the facilities of the district in a practicable manner. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 3 (part), as amended.)

§ 51.711. Liability of Excluded and Included Land

The land excluded from the district is free from any lien or liability created on the excluded land by reason of its having been included in the district. Land added to the district is subject to all laws, liens, and provisions governing the district and the land in the district. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 3 (part), as amended.)

§ 51.712. Duty to Advise Water Rights Commission

The board shall furnish the Texas Water Rights Commission a detailed description of the land excluded and a detailed description of the land included within 30 days after the exclusion and inclusion of land under the provisions of Sections 51.702-51.711 of this code. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 4, as amended.)

§ 51.713. Right to Serve New Land Included in District

The district has the same right to furnish water service to the included land that it previously had to furnish service to the excluded land. The mere inclusion of a larger total acreage than that excluded does not give the district the right to irrigate a larger total acreage or to appropriate a larger quantity or volume of public water for irrigation than the district would have had the right to irrigate or to appropriate before the exclusion and inclusion of the land. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 5, as amended.)

§ 51.714. Adding Land by Petition of Landowner

The owner of land may file with the board a petition requesting that the land described by metes and bounds in the petition be included in the district. (39th Legis., G.L., Ch. 25, Sec. 75, sen. 1, 2 (part).)

§ 51.715. Petition Signed and Executed

The petition of the landowner to add his land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate. (39th Legis., G.L., Ch. 25, Sec. 75, sen. 2 (part).)

§ 51.716. Hearing and Determination of Petition

The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the district and if the water supply, canals, and other improvements are sufficient to supply the added land without injuring land already in the district. (39th Legis., G.L., Ch. 25, Sec. 75, sen. 3.)

§ 51.717. Recording Petition

A petition which is granted adding land to the district shall be filed for record and shall be recorded in the office of the county clerk of the county in which the land is located. (39th Legis., G.L., Ch. 25, Sec. 75, sen. 4.)

§ 51.718. Adding Certain Territory by Petition

Landowners of a defined area of territory not included in a district may file a petition requesting inclusion with the secretary of the board signed by a majority of the landowners in the territory or by 50 landowners if the number of landowners is more than 50. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 1, 2, 3, as added.)

§ 51.719. Hearing on Petition

The board by order shall set the time and place of the hearing on the petition to include the territory in the district. The hearing shall be held not less than 30 days from the date of the order. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 4, as added.)

§ 51.720. Notice of Hearing

(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and one copy in a public place in the territory proposed to be annexed. The notices shall be posted for at least 15 days before the day of the hearing.

(c) The notice shall be published one time in a newspaper with general circulation in the county. The notice shall be published at least 15 days before the day of the hearing. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 5, 6, 7, as added.)

§ 51.721. Resolution to Add Territory

If the board finds on hearing the petition that the addition would be of benefit to the district and that the water supply, canals, and other improvements are sufficient to supply the added territory without injuring the land already in the district, it may add the territory to the district by resolution entered in its minutes. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 8, 10 (part), as added.)

§ 51.722. Elections to Ratify Annexation of Land

(a) Annexation of the territory is not final until ratified by a majority vote of the electors at a separate election held in the district and by a majority vote of the electors at a separate election held in the territory proposed to be added.

(b) If the district has outstanding debts or taxes, the same election shall determine also whether or not the territory to be added will assume its proportion of the debts or taxes if the land is added to the district. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 10 (part), 12, as added.)

§ 51.723. Notice and Procedure of Election

The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters shall be governed by the provisions of Subchapter E of this chapter. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 11, as added.)

§ 51.724. Liability of Added Territory

The added territory shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted, or authorized by the district to which it is added. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 9, as added.)

§ 51.725. Adding Territory Annexed to a City in the District

Territory annexed to a city included in a district organized under the provisions of this chapter and providing water or sewer services to the city or its inhabitants may be added to the district by complying with the provisions of Sections 51.726–51.729 of this code. (39th Legis., G.L., Ch. 25, Sec. 75d, sen. 1 (part), as added.)

§ 51.726. Hearing to Add Territory Annexed to a City

After final passage of an ordinance or resolution annexing territory to the city, the board may issue a notice of a hearing on the question of annexing any part of the territory to the district. (39th Legis., G.L., Ch. 25, Sec. 75d, sen. 1 (part), as added.)

§ 51.727. Notice of Hearing

(a) The notice of the hearing shall state the date and place of the hearing and a description of the area proposed to be annexed. In lieu of the description, the notice may make reference to the annexation ordinance of the city.

(b) The board shall publish the notice one time at least 10 days before the day of the hearing in a newspaper with general circulation in the city which made the annexation.

(c) Additional notice shall be given to a railroad with any railroad right-of-way or property in the territory to be annexed by certified mail at its latest address appearing on the tax rolls of the city, district, or county. (39th Legis., G.L., Ch. 25, Sec. 75d, sen. 2, 3, 4, as added.)

§ 51.728. Resolution Adding the Territory

If the board finds from the hearing that the territory proposed to be annexed will be benefited by the facilities or services afforded or to be afforded by the district, the board shall adopt a resolution annexing the territory to the district. (39th Legis., G.L., Ch. 25, Sec. 75d, sen. 5, as added.)

§ 51.729. Election to Assume Bonds and Authorize Tax

After territory is added to the district, the board may call an election within the district to determine whether the district as enlarged shall as-

sume the outstanding tax-supported bonds, and the tax-supported bonds voted but not yet sold, and whether an ad valorem tax shall be levied on all taxable property in the district as enlarged for the payment of the bonds. The election shall be called and held in the manner provided in this chapter for elections for the issuance of bonds. (39th Legis., G.L., Ch. 25, Sec. 75d, sen. 6, 7, as added.)

§ 51.730. Extending Municipal District to Include Lands Annexed to City

If a district is a "Municipal District," and includes the total area of a city or town, and furnishes or has plans to furnish all or part of a water supply, sanitation facilities, flood protection, or other service for the general benefit of the inhabitants of the embraced city or town, the boundaries of the district shall be extended automatically to include land which the embraced city or town annexes by extending its boundaries to include land that is not already included in the district. The land annexed to the city or town shall constitute part of the district, but the inclusion in the district is not final until the board publishes notice of a hearing, holds a hearing, and hears evidence to consider the exclusion or retention in the district of any part of the added land, according to the applicable provisions of Sections 51.691–51.701 of this code. (39th Legis., G.L., Ch. 25, Sec. 75—a, as added.)

§ 51.731. Liability of Land Added to a District Operating under Article XVI, Section 59

(a) If land is added to a district operating under Article XVI, Section 59, of the Texas Constitution, the order of the board adding the land to the district may contain an agreement that the added land will be taxed on the benefit basis instead of the ad valorem basis. The agreement may provide that the added land will be taxed on a uniform acreage basis or on the plan of a definite annual payment.

(b) The board, in its order adding land to the district, shall set the amount of the debts to be paid by the owner of the added land and levy annual taxes against the land to pay the debts. The taxes assessed by the board constitute a lien against the added land in the same manner and to the same extent as if the land had been a part of the district at the time the indebtedness was incurred or authorized by an election held for that purpose.

(c) The added land is a part of the district and is liable for debts subsequently incurred by the district in the same manner as other land in the district. (39th Legis., G.L., Ch. 25, Sec. 147.)

§ 51.732. Consolidation of Districts

Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 51.733–51.736 of this code. (39th Legis., G.L., Ch. 25, Sec. 129, sen. 1 (part).)

§ 51.733. Elections to Approve Consolidation

(a) After the directors of each district have agreed on the terms and conditions of consolidation, they shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order the election to be held on the same day in each district and shall give notice of the election for at least 20 days in the manner provided by law for other elections.

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation. (39th Legis., G.L., Ch. 25, Sec. 129, sen. 1 (part), 2, 3.)

§ 51.734. Governing Consolidated Districts

(a) After two or more districts are consolidated, they become one district, except for the payment of debts created before consolidation, and are governed as one district.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to wind up the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district until the next general election or name persons to serve as officers of the consolidated district until the next general election if all officers of the original districts agree to resign.

(d) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(e) The current board shall approve the bond of each new officer. (39th Legis., G.L., Ch. 25, Sec. 129, sen. 6 (part), 7, 8, 9.)

§ 51.735. Debts of Original Districts

After two or more districts are consolidated, the debts of the original districts are protected and are not impaired. These debts may be paid by taxes or assessments levied on the land in the original districts as if they had not consolidated or contributions from the consolidated district on terms stated in the consolidation agreement. (39th Legis., G.L., Ch. 25, Sec. 129, sen. 4, 6 (part).)

§ 51.736. Assessment and Collection of Taxes

After consolidation, the officers of the consolidated district shall assess and collect taxes on property in the original district to pay debts created by the original district. (39th Legis., G.L., Ch. 25, Sec. 129, sen. 5.)

[Sections 51.737 to 51.780 reserved for expansion]

SUBCHAPTER P. DISSOLUTION OF DISTRICT**Section 51.781. Dissolution of District Prior to Issuance of Bonds**

(a) If the electors of a district reject the proposal to issue construction bonds by a constitutional or statutory majority vote, the board must dissolve the district and liquidate the affairs of the district as provided in Sections 51.781–51.792 of this code.

(b) Subject to the provisions of Subchapter G of Chapter 50 of this code, if a district finds at any time before the authorization of construction bonds or the final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully and beneficially accomplished, the board may issue notice of a hearing on a proposal to dissolve the district.

(c) Subject to the provisions of Subchapter G of Chapter 50 of this code, if 20 percent of the qualified voters of a district petition the board for a hearing on a proposal to dissolve the district and deposit with the board an amount estimated to cover the actual cost of giving notice and holding the hearing, the board shall publish notice of the hearing within 10 days and shall hold the hearing within 40 days after the filing of the petition, as provided in Sections 51.782–51.785 of this code. If the finding is against the petition, the deposit shall be applied to pay the cost of giving notice and holding the hearing. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 1, 2, 14, as added.)

§ 51.782. Notice of Hearing

The board shall post notice of the hearing on the bulletin board at the courthouse door of each county in which the district is located and at three or more other public places within the boundaries of the district. The notice must be posted at least 10 days before the hearing on the proposed dissolution of the district. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 3, 4, as added.)

§ 51.783. Hearing

The board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 5, as added.)

§ 51.784. Board's Order to Continue or Dissolve District

The board shall determine from the evidence whether the best interests of the persons, land, and property in the district will be promoted by prosecuting the district's plans or whether the best interests of the persons and property in the district will be served by dissolving the district, and the board shall enter the appropriate findings and order in the record. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 6, 7 (part), as added.)

§ 51.785. Judicial Review of Board's Order

The board's decree to continue or to dissolve the district shall be final and cannot be judicially reviewed except on the ground of fraud, palpable error, or gross abuse of discretion. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 7 (part), as added.)

§ 51.786. Appointment of Trustee

(a) If the board orders the dissolution of the district, it shall appoint a director or some other competent person as trustee to close the affairs of the district as soon as practicable.

(b) The board shall determine the term of service and the amount of compensation for the trustee. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 8, as added.)

§ 51.787. Discharge of District's Obligations by Trustee

(a) The trustee shall reduce all assets and resources of the district to possession and money and apply them to discharge the outstanding obligations of the district, having regard to specific funds. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 9, as added.)

(b) If required, the board shall levy, assess, and collect sufficient additional taxes to pay all necessary expenses and outstanding obligations of the district. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 10, as added.)

§ 51.788. Discharge of Trustee

The trustee shall be discharged when all obligations of the district are paid and the trustee's account is verified and settled. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 11, as added.)

§ 51.789. Final Order of Dissolution

After all obligations are paid and the trustee is discharged, the board shall enter its final order of dissolution and record the final order in the deed records of the county or counties in which the district is located. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 12 (part), as added.)

§ 51.790. Water Rights of Dissolved District

Water rights held from the state shall revert to the state and may not be assigned by the district in anticipation of dissolution. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 12 (part), as added.)

§ 51.791. Taxes in Excess of District's Obligations

(a) If taxes have been collected by the dissolved district in excess of the amount required to liquidate the obligations of the district, the excess shall be paid ratably to the county treasurer or treasurers of the county or counties in which the district was located.

(b) The commissioners courts shall credit the money received from the dissolved district to the interest and sinking fund for any outstanding county bonds. If the county has no outstanding bonds, the money may be applied as the commissioners court lawfully directs. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 13, as added.)

§ 51.792. Permanent Record of Dissolved District

All records, vouchers, and accounts of the district shall be delivered to the commissioners court of the county in which the district's principal office was located and shall be preserved as a permanent record. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 15, as added.)

§ 51.793. Dissolution of District for Failure to Complete Plant

Subject to the provisions of Subchapter G of Chapter 50 of this code if a district has not within 10 years from the date of its creation commenced and completed the construction of a plant and improvements to carry out the purposes of its creation in accordance with the plans adopted by the district, the board may enter a resolution in its minutes to dissolve the district under the provisions of Sections 51.794-51.828 of this code. After compliance with these provisions, a vote of the electors of the district, and the payment of its valid, enforceable indebtedness, the district may be dissolved. (48th Legis., Ch. 328, Sec. 1.)

§ 51.794. Resolution to Dissolve District

The board shall find in its resolution to dissolve the district that the plans of the district are impracticable or that the purposes of the district should be abandoned and shall state the reasons for the finding. (48th Legis., Ch. 328, Sec. 2, sen. 1.)

§ 51.795. Statements of Indebtedness and Expenses

The board shall prepare or have prepared and shall approve a statement of all valid, enforceable indebtedness of the district and shall enter the statement in the minutes. The board shall prepare or have prepared an estimate of all expenses incurred or to be incurred in the dissolution of the district and in the collection of sufficient taxes to pay all valid, enforceable indebtedness of the district. (48th Legis., Ch. 328, Sec. 2, sen. 2 (part).)

§ 51.796. Election to Approve Dissolution of District and Issuance of Dissolution Bonds

The board shall enter an order calling an election to determine whether or not the district shall be dissolved and bonds issued to pay the district's indebtedness and estimated expenses. (48th Legis., Ch. 328, Sec. 2, sen. 2 (part).)

§ 51.797. Maximum Amount, Interest Rate, and Maturity of Bonds

The maximum amount of bonds to be voted on and issued shall not be more than the total amount of the approved valid, enforceable indebtedness and the estimate of expenses, exclusive of the estimated cost of collection of taxes. The maximum amount of bonds, exclusive of interest and expenses of collection, to be issued for fees and expenses of dissolution of the district shall not be more than an amount equal to \$2 times the number of acres in the district. The bonds shall mature serially over a period of not more than seven years. (48th Legis., Ch. 328, Sec. 2, sen. 3, 4.)

§ 51.798. Notice of Election

(a) The president and secretary of the board shall issue notice of the election, stating:

- (1) the findings of the board with reference to the dissolution of the district;
- (2) the amount of bonds to be issued;
- (3) the interest rate on the bonds; and
- (4) the time and place of the election.

(b) The notice also shall contain a statement of the estimates and the expenses incurred and to be incurred in the dissolution of the district and the collection of taxes for the payment of the bonds and shall state that the bonds will be payable by the levy of taxes on the taxable property in the district in proportion to the values of the property as provided in Section 51.804 of this code.

(c) The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which any part of the district is located. The first publication shall be at least 14 days before the day of the election. (48th Legis., Ch. 328, Sec. 3.)

§ 51.799. Procedure for Holding Election

(a) The ballots for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the district and issuance of dissolution bonds and the levy of taxes for the payment of the bonds."

(b) The election shall be conducted and returns made and canvassed according to the provisions in this chapter for construction bond elections. (48th Legis., Ch. 328, Sec. 4.)

§ 51.800. Issuance and Sale of Dissolution Bonds

(a) If a majority of the electors at the election vote in favor of the dissolution of the district and the issuance of bonds and the levy of taxes for the payment of the bonds, the board shall issue and sell the bonds or any part of them. The bonds shall be known as "dissolution bonds."

(b) The board may deliver the dissolution bonds or any part of them in satisfaction of the valid, enforceable indebtedness of the district for which the bonds are issued, or in payment of expenses incurred or to be incurred in connection with the dissolution of the district, or in payment of services rendered or to be rendered to the district.

(c) The dissolution bonds shall be:

- (1) serially numbered, commencing with the first maturities;
- (2) issued in the name of the district;
- (3) signed by the president; and
- (4) attested by the secretary, with the seal of the district attached.

(d) The board shall determine the maturities of the bonds not to exceed seven years from their date, the denominations of the bonds, and the interest. (48th Legis., Ch. 328, Sec. 5.)

§ 51.801. Destroying Unsold Bonds

If a majority of the electors at the election vote in favor of the dissolution of the district, the board shall destroy all unsold bonds of the district and enter an order cancelling all unissued and unsold bonds authorized by the electors. After the destruction and the entry of the order, the bonds shall have no further force or effect. (48th Legis., Ch. 328, Sec. 6, sen. 1.)

§ 51.802. Board's Authority to Contract

The board may contract with trustees, engineers, attorneys, and others it considers necessary or desirable to properly liquidate and wind up the

affairs of the district. The board also may assume obligations made by others for the benefit of the district, or from which the district benefited, which in its judgment may be fair and equitable. (48th Legis., Ch. 328, Sec. 6, sen. 2.)

§ 51.803. Tax to Pay Dissolution Bonds

The order issuing the dissolution bonds shall provide that the principal of and interest on the bonds shall be payable from the proceeds of a tax to be levied on the taxable property located in the district. The tax shall be in an amount sufficient for the payment of the principal and interest. (48th Legis., Ch. 328, Sec. 7, sen. 1 (part).)

§ 51.804. Determining Amount of Tax

(a) The value of all of the taxable property of the district shall be taken at the assessed value as determined and approved by the board in the manner provided in this subchapter, and an amount equal to the total of the principal and all interest to maturity on the bonds voted plus the estimated cost of collection of taxes shall be assessed against the taxable property of the district on the ad valorem basis.

(b) The tax against the taxable property of each owner shall be that portion of the total principal and interest of the dissolution bonds and costs of collection which the assessed value of the taxable property of the owner bears to the total assessed values in the district. (48th Legis., Ch. 328, Sec. 7, sen. 1 (part), 2.)

§ 51.805. Payment of Tax

The amount of the tax on the taxable property of each owner shall be payable in equal annual installments during the period in which the bonds mature, on dates specified in the order issuing the bonds. (48th Legis., Ch. 328, Sec. 7, sen. 3.)

§ 51.806. Advance Payment of Taxes in Cash

The order issuing the bonds shall provide that a property owner may secure release of the entire amount of his taxable property as assessed on the rolls from the tax levied for the dissolution bonds by the payment in cash of the full amount of tax. (48th Legis., Ch. 328, Sec. 8, sen. 1 (part).)

§ 51.807. Computing Amount of Advance Cash Payment

(a) In order to compute the full amount of an advance cash payment, the interest rate on the bonds shall be applied on an annual basis to each unpaid installment of taxes for the number of years the installment of taxes must run before being due. The total of the items computed shall be deducted from the face amount of the unpaid installments of taxes.

(b) In order to compute the full amount of an advance cash payment, the interest rate on the bonds shall be applied on an annual basis to each unpaid past-due installment of taxes for the number of years the installment has been past due, and 10 percent of the face amount of each installment that is past due shall be added as a penalty. The total of the items computed shall be added to the unpaid installments. (48th Legis., Ch. 328, Sec. 8, sen. 1 (part), 2, 3.)

§ 51.808. Surrender of Bonds in Payment of Taxes

The order issuing the bonds shall provide that any of the bonds with all unmatured interest and all appurtenant coupons may be surrendered at any time in payment of all unpaid installments of the taxes. The amount of taxes found to be due by the method provided in Section 51.809 of this code may be discharged by the surrender of the proper

amount of dissolution bonds, together with all unpaid appurtenant interest coupons at the face value of the bonds and coupons. (48th Legis., Ch. 328, Sec. 8, sen. 4 (part), 9.)

§ 51.809. Computing Amount of Payment Made by Surrendering Bonds

(a) In order to compute payment by surrendering bonds, the interest rate on the bonds shall be applied on an annual basis to each unpaid installment of taxes for the number of years the installment must run before being due. The total of the items computed shall be deducted from the face amount of the unpaid installments of taxes.

(b) In order to compute payment by surrendering bonds, the interest rate on the bonds shall be applied to each unpaid installment of taxes for the number of years the installment has been past due and 10 percent of the face amount of each installment of taxes that is past due shall be added as a penalty. The total of the items computed shall be added to the face amount of each unpaid installment of taxes. (48th Legis., Ch. 328, Sec. 8, sen. 4 (part), 5, 6, 7, 8.)

§ 51.810. Use by Trustee of Advance Payments of Tax

The order issuing the bonds shall provide that the bonds shall be called and redeemed by the trustee in the inverse order of their maturity and in the inverse order of their serial numbers. They shall be paid out of any funds received in advance payment of taxes that are not required for meeting any past-due and unpaid principal and interest or the next maturing installment of principal and interest. (48th Legis., Ch. 328, Sec. 8, sen. 10.)

§ 51.811. Approval and Registration of Dissolution Bonds

After the dissolution bonds are issued by the board and before they are put in circulation, the bonds, at the option of the board, shall either be submitted to and approved by the attorney general and registered by the comptroller as provided in Sections 51.416–51.418 of this code or be validated by suit as provided in Sections 51.423–51.431 of this code. The provisions of these sections of this code which are not inconsistent with the provisions of this subchapter are applicable to the dissolution bonds provided for in this subchapter. (48th Legis., Ch. 328, Sec. 9.)

§ 51.812. Preparing Tax Roll

Before the issuance and delivery of the bonds, the board shall prepare a tax roll in duplicate showing the full and true valuation of all property subject to taxation, the name of the owner of the property, if known; and if the name of the owner is not known, the tax roll shall state that the owner of the property is not known. (48th Legis., Ch. 328, Sec. 10, sen. 1.)

§ 51.813. Filing Tentative Tax Roll

After the tax roll is prepared, it shall be filed in the district office, if any, and if there is not, in the office of the county clerk of the county or counties in which the district is located. The tax roll shall be subject to public inspection. (48th Legis., Ch. 328, Sec. 10, sen. 2.)

§ 51.814. Notice of Meeting as Board of Equalization

(a) After the tax roll has been filed for at least five days, the board shall publish a notice once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which any part of the district is located. The first publication shall be at least 14 days before the meeting of the board of equalization.

(b) The notice shall call attention to the filing of the tax roll and the name and place or places where the tax roll is filed and available for inspection, and shall notify all interested persons of the time and place of the meeting of the board for the purpose of acting as a board of equalization to examine, correct, equalize, appraise, and approve the valuations of the taxable property of the district and improvements on taxable property as set forth in the tax roll. (48th Legis., Ch. 328, Sec. 10, sen. 3, 4.)

§ 51.815. Meeting as Board of Equalization

At the time and place stated in the notice, the board shall meet and examine the tax roll. The board shall equalize as nearly as possible the value of all property for taxation and fix the value of all property for taxation. (48th Legis., Ch. 328, Sec. 11, sen. 1 (part), 3.)

§ 51.816. Authority and Procedure as Board of Equalization

(a) Any interested person may appear at the meeting and offer evidence for or against any matter being considered by the board of equalization. The board may send for persons and papers, and may administer oaths to persons who testify before the board, and may ascertain the full true value of all property subject to taxation.

(b) The board may lower or raise the valuation of all property listed on the tax roll and place property on the roll which did not appear on it. The board shall correct any errors of assessment and equalize the value of property appearing on the roll. (48th Legis., Ch. 328, Sec. 11, sen. 1 (part), 2, 4.)

§ 51.817. Approving Tax Roll

After the board of equalization finally fixes the valuation of all taxable property in the district and the tax roll of the district is finally prepared, the board shall meet and consider the tax roll, make all necessary corrections in the tax roll, and endorse its approval on the roll. (48th Legis., Ch. 328, Sec. 11, sen. 5.)

§ 51.818. Approved Tax Roll Not Subject to Revision

The action of the board in finally approving the tax roll is final and is not subject to revision by the board or any other tribunal. (48th Legis., Ch. 328, Sec. 11, sen. 6.)

§ 51.819. Filing Approved Tax Roll

After the final approval of the tax roll by the board, the board shall file the tax roll with the assessor and collector of the county or counties in which the district is located. (48th Legis., Ch. 328, Sec. 12, sen. 1 (part).)

§ 51.820. Collection of Taxes

The assessor and collector shall collect the taxes shown on the roll on the land located in the county for which he is assessor and collector at the time and in the manner specified by the board in its various orders issuing the dissolution bonds and levying the taxes. The assessor and collector is entitled to one percent of the amount collected for his services in collecting the taxes. (48th Legis., Ch. 328, Sec. 12, sen. 1 (part), 2.)

§ 51.821. Appointment of Trustee

(a) Before the issuance and delivery of dissolution bonds, the board shall appoint a trustee of the funds to be collected from the taxes. The trustee shall be an individual or a bank or trust company in the county or one of the counties in which the district is located.

(b) The board may determine the powers, rights, duties, liabilities, and other matters relating to the trusteeship and the appointment of successor trustees which the board considers proper to effectuate the purpose of the trusteeship.

(c) The board may determine the bond to be given by the trustee and the amount to be paid to the trustee from the funds collected from the taxes. (48th Legis., Ch. 328, Sec. 13, sen. 1 (part), 2 (part).)

§ 51.822. Authority of the Trustee

The trustee shall receive from the assessor and collector all proceeds from the assessments less the assessor and collector's charges and shall be the paying agent of the district for the bonds. The bonds shall be payable at the place of business of the trustee. The trustee shall be authorized by the order providing for the issuance of the bonds to institute suits in the name of the district for the use and benefit of the holders of the bonds and to apply all sums of money recovered in the suits to the payment of the bonds. (48th Legis., Ch. 328, Sec. 13, sen. 1 (part), 2 (part).)

§ 51.823. Tax Lien

After filing the tax roll in the office of the assessor and collector, the taxes, penalties, interest, and attorney's fees shall become a specific charge on and be secured by a lien superior to all other liens, except tax liens, on the personal property, land, and improvements listed on the tax roll regardless of whether the ownership of the personal property, land, and improvements is correctly stated on the tax roll. (48th Legis., Ch. 328, Sec. 14, sen. 1 (part).)

§ 51.824. Foreclosure of Lien

(a) The lien shall be foreclosed for the full amount due and order of sale issued against the property or as much of it as may be found in a suit brought for the recovery of the taxes.

(b) The lien may be foreclosed in a suit or suits brought in the name of the district by the board, or by the trustee or his successor as provided by the board.

(c) The procedure for the suit shall be the procedure for ordinary civil foreclosure suits.

(d) The provisions of Chapter 506, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 7345D, Vernon's Texas Civil Statutes), shall not be applicable to the suits. (48th Legis., Ch. 328, Sec. 14, sen. 1 (part), 2, 3.)

§ 51.825. Default in Payment of Tax Installment

(a) Default in the payment of an installment of taxes levied for the payment of dissolution bonds for 60 days after the installment becomes due and payable as provided by the board shall, at the option of the board or the trustee, immediately mature the remaining installments and cause the entire amount of the taxes to immediately become due and payable.

(b) The trustee shall bring suit for the collection of the entire amount of the taxes and for the foreclosure of the lien securing the payment of the taxes. (48th Legis., Ch. 328, Sec. 15 (part).)

§ 51.826. Penalty and Attorney's Fee

(a) A penalty of 10 percent of the unpaid amount of taxes shall accrue immediately on default of payment of taxes after the 60 days.

(b) An attorney's fee of 10 percent of the unpaid amount of the taxes is due and payable immediately on institution of suit for collection and foreclosure.

(c) The penalty and attorney's fee shall be recovered in the suit and shall constitute an addition to the taxes and shall be secured by the tax lien. (48th Legis., Ch. 328, Sec. 15 (part).)

§ 51.827. Discharge of Lien

(a) On the final payment of the taxes, either the assessor and collector or the trustee shall issue a certificate certifying that the taxes have been fully satisfied and the lien is released.

(b) The execution and acknowledgment of the certificate and the recording of the certificate in the deed records of the county in which the property is located shall be full and conclusive evidence of the discharge of the taxes and lien. (48th Legis., Ch. 328, Sec. 16.)

§ 51.828. District Considered Dissolved

(a) On the issuance and sale or delivery of the dissolution bonds and the appointment and qualification of the trustee, the secretary shall deposit all available existing records of the district in the office of the county clerk of the county or one of the counties in which the district is located.

(b) The district immediately is considered dissolved for all purposes, except that the taxes levied against the taxable property may be enforced in the name of the district on behalf of the bondholders by the trustee or his successors. The surviving board may meet from time to time until the dissolution bonds are paid and discharged and may delegate its powers and give instructions to the trustee or his successors as the board sees fit and circumstances warrant. After the payment of all dissolution bonds, interest, and costs of collection, the board shall be dissolved. (48th Legis., Ch. 328, Sec. 17.)

§ 51.829. Dissolution of District in Counties of less than 11,000 Population

Subject to the provisions of Sections 50.251-50.256 of this code, a district located entirely in a county having a population of less than 11,000, according to the last preceding federal census, may be abolished by a majority vote of the electors residing in the district at an election held for the purpose of determining whether or not the district should be dissolved. (39th Legis., G.L., Ch. 25, Sec. 149, sen. 1, as amended.)

§ 51.830. Petition for Dissolution of District

A petition for the dissolution of the district shall be filed with the board and shall state the name of the district and the purpose for which the election is requested. The petition may refer to the order establishing the district for boundaries, limits, and area of the district. (39th Legis., Ch. 25, Sec. 151, as added.)

§ 51.831. Signatures on Petition

A petition for dissolution of the district may be signed and filed in two or more copies. The petition shall be signed by a majority in number of the property owners with land in the district and the property owners of a majority in value of the land in the district, as shown by the tax rolls of the district, or 50 landowners if the number of landowners in the district is more than 50. (39th Legis., G.L., Ch. 25, Sec. 150, as added.)

§ 51.832. Procedure for Holding Election

(a) An election to determine whether or not the district shall be dissolved shall be held in accordance with the provisions of Subchapter E, of this chapter.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The dissolution of district."

(c) The returns of the election shall be canvassed and the result declared by the board. The board shall enter an order in its minutes declaring the result of the election, which order shall be made and entered in accordance with Section 51.034 of this code. The order shall be filed in the office of the county clerk and recorded in the deed records of the county as provided in Section 51.034 of this code. (39th Legis., G.L., Ch. 25, Sec. 152, 153, sen. 2, as added.)

§ 51.833. Election in District Including City, Town, or Municipal Corporation

In an election to dissolve a district in which a city, town, or municipal corporation is located, the city, town, or municipal corporation shall be a separate voting precinct, and the ballots cast in the city, town, or municipal corporation shall be counted and canvassed to show the result of the election there. If the city, town, or municipal corporation votes against the dissolution of the district and the balance of the district votes for the dissolution of the district, the district shall be dissolved. (39th Legis., G.L., Sec. 154, as added.)

§ 51.834. Subsequent Election

If the proposition to dissolve the district fails to carry at the election held for that purpose, no other election for the same purpose shall be held within one year after the date of the election. (39th Legis., G.L., Ch. 25, Sec. 155, as added.)

§ 51.835. District Dissolved

If a majority of those voting at the election vote in favor of dissolving the district, the district shall be dissolved and shall have no further authority after the election, except that any debts incurred shall be paid and the organization shall be maintained until all the debts are paid. (39th Legis., G.L., Ch. 25, Sec. 153, sen. 1, as added.)

§ 51.836. Taxes to Pay Indebtedness after Dissolution

If a district has outstanding bonds or other indebtedness maturing beyond the current year in which the dissolution occurs, the commissioners court of the county in which the district is located shall levy and have collected, as county taxes are assessed and collected, sufficient taxes on all taxable property in the district to pay the principal of and interest on the bonds and other indebtedness when due. (39th Legis., G.L., Ch. 25, Sec. 149, sen. 2, as amended.)

CHAPTER 52. UNDERGROUND WATER CONSERVATION DISTRICTS

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SUBCHAPTER G. DISSOLUTION OF DISTRICT

- 52.401. Dissolution.

SUBCHAPTER A. GENERAL PROVISIONS

Section 52.001. Definitions

In this chapter:

(1) "Commission" means the Texas Water Rights Commission. (39th Legis., Ch. 25, Sec. 3c, subsec. A(1), as amended; subsec. I, sen. 3, as amended.)

(2) "District" means an underground water conservation district created under this chapter. (39th Legis., Ch. 25, Sec. 3c, subsec. A(2), as amended.)

(3) "Underground water" means water percolating below the surface of the earth and that is suitable for agricultural, gardening, domestic, or stock raising purposes, but does not include defined subterranean streams or the underflow of rivers. (39th Legis., Ch. 25, Sec. 3c, subsec. A(3), as amended.)

(4) "Underground water reservoir" means a specific subsurface water-bearing reservoir having ascertainable boundaries and containing underground water that can be produced from a well at a rate of 150,000 gallons or more a day. (39th Legis., Ch. 25, Sec. 3c, subsec. A(4), as amended.)

(5) "Subdivision of an underground water reservoir" means a reasonably definable part of an underground water reservoir in which the underground water supply will not be unreasonably affected by withdrawing water from any part of the reservoir, as indicated by known geological and hydrological conditions and relationships and on foreseeable economic development at the time the subdivision is designated or altered. (39th Legis., Ch. 25, Sec. 3c, subsec. A(5) sen. 1, as amended.)

(6) "Waste" means:

(A) withdrawal of underground water from an underground water reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from an underground water reservoir if the water produced is not used for a beneficial purpose;

(C) escape of underground water from an underground water reservoir to any other reservoir that does not contain underground water;

(D) pollution or harmful alteration of underground water in an underground water reservoir by salt water, other deleterious matter admitted from another stratum or from the surface of the ground; or

(E) wilfully causing, suffering, or permitting underground water to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well. (39th Legis., Ch. 25, Sec. 3c, subsec. A(6), as amended.)

(7) "Use for a beneficial purpose" means use for:

(A) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;

(B) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or

(C) any other purpose that is useful and beneficial to the user. (39th Legis., Ch. 25, Sec. 3c, subsec. A(7), as amended.)

(8) "Segregated irrigated area" means an irrigated area separated from other irrigated areas by at least five miles of unirrigated land. (39th Legis., Ch. 25, Sec. 3c, subsec. A(8), as amended.)

Amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, § 9, eff. May 31, 1971.

§ 52.002. Ownership of Underground Water

The ownership and rights of the owner of the land and his lessees and assigns in underground water are hereby recognized, and nothing in this code shall be construed as depriving or divesting the owner or his lessees and assigns of the ownership or rights, subject to the rules promulgated by a district under this chapter. (39th Legis., Ch. 25, Sec. 3c, Subsec. D, sen. 1, as amended.)

§ 52.003. Surface Water Laws not Applicable

The laws and administrative rules relating to the use of surface water do not apply to underground water. (39th Legis., Ch. 25, Sec. 3c, subsec. D(1), as amended.)

§ 52.004. Application of Chapter and District Rules

The provisions of this chapter and the rules adopted by a district under this chapter apply only in the area designated by the commission as an underground water reservoir or a subdivision of an underground water reservoir over which the district is organized. (39th Legis., Ch. 25, Sec. 3c, subsec. D(5), as amended.)

[Sections 52.005 to 52.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

Section 52.021. Purpose

In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of the underground water of underground water reservoirs or their subdivisions, consistent with the objectives of Article XVI, Section 59, of the Texas Constitution, underground water conservation districts may be created as provided by this chapter. (39th Legis., Ch. 25, Sec. 3c, subsec. B, sen. 1, 2 (part), as amended.)

§ 52.022. Method of Creating District

Except as otherwise provided by this subchapter, the provisions in Chapter 51 of this code for creating water control and improvement districts apply to the creation of underground water conservation districts to the extent that those provisions may be made applicable. (39th Legis., Ch. 25, Sec. 3c, subsec. B, sen. 2 (part), as amended.)

§ 52.023. Boundaries of District

(a) Neither the commission nor a commissioners court may consider a petition for the creation of a district unless the proposed boundaries of the district are coterminous with the boundaries of an underground water reservoir or a subdivision of an underground water reservoir, as previously designated by the commission.

(b) Subject to Subsection (a) of this section, a district may include all or part of one or more counties, cities, districts, or other political subdivisions. (39th Legis., Ch. 25, Sec. 3c, subsec. C, sen. 1, 2, as amended.)

§ 52.024. Designation of Reservoirs and Subdivisions

(a) On its own motion from time to time, or on receiving a petition conforming to the requirements of Section 51.013 of this code, the commission, after notice and hearing as provided by Sections 51.018 and

51.027–51.029 of this code, shall designate underground water reservoirs and subdivisions of underground water reservoirs.

(b) On the request of any person interested in the petition, or on the request of the commission, the Texas Water Development Board shall prepare available evidence relating to the existence, area, and characteristics of the reservoir or subdivision. Before making the designation, the commission shall consider the evidence prepared by the board and other evidence submitted at the hearing.

(c) The commission may alter the boundaries of designated underground water reservoirs and subdivisions as required by future conditions and as justified by factual data. However, an alteration of boundaries does not invalidate the previous creation of any district.

(d) When the commission has designated the boundaries of a subdivision as provided by this section, its findings on the location of the boundaries, the questions of “reasonableness” and “affect,” as referred to in Section 52.001(5) of this code, and all other questions essential to the existence of a subdivision, are conclusive and final unless a suit is brought under Section 52.301 of this code within the 30-day period immediately following the date on which the commission enters its order. (39th Legis., Ch. 25, Sec. 3c, subsec. C, sen. 3; subsec. I, sen. 1, 2; subsec. A(5), sen. 2; as amended.)

§ 52.025. Findings

(a) If the commissioners court or the commission finds that the district is feasible and practicable, that it would be a benefit to land in the district, and that it would be a public benefit or utility, the commissioners court or the commission shall make these findings and grant the petition.

(b) If the commissioners court or the commission finds that the district is not feasible and practicable, that it would not be a benefit to land in the district, that it would not be a public benefit or utility, or that it is not needed, the commissioners court or the commission shall refuse to grant the petition. (39th Legis., G.L., Ch. 25, Sec. 19, sen. 4, 5, as amended.)

§ 52.026. Segregated Irrigated Area

A district shall include no segregated irrigated area unless a majority of the qualified electors residing in the segregated irrigated area and voting at the election favor inclusion of the area within the district. (39th Legis., Ch. 25, Sec. 3c, subsec. E(1), as amended.)

[Sections 52.027 to 52.050 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 52.051. Administrative and Procedural Provisions

Except as otherwise provided by this chapter, the administrative and procedural provisions of Chapter 51 of this code apply to districts created under this chapter. (39th Legis., Ch. 25, Sec. 3c, subsec. B, sen. 2 (part), as amended.)

§ 52.052. Election of Directors: Precinct Method

The directors of the district shall be elected according to the precinct method as prescribed by Chapter 51 of this code. However, if any part of a municipal corporation is a part of one precinct, then no part of the municipal corporation shall be included in another precinct, except that a municipal corporation having a population of more than 200,000 may be

divided between two precincts. (39th Legis., Ch. 25, Sec. 3c, subsec. E(3), as amended.)

[Sections 52.053 to 52.100 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 52.101. Rule-making Power

A district may make and enforce rules to provide for conserving, preserving, protecting, recharging, and preventing waste of the underground water of an underground water reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(1), B(2), as amended.)

§ 52.102. Rules: Publication, Effective Date

A brief resume of each rule shall be published once a week for two consecutive weeks in one or more newspapers to give circulation within the district. No rule may be made effective until at least 14 days have elapsed after the date of the first publication. (39th Legis., Ch. 25, Sec. 3c, subsec. B(9) (part), as amended.)

§ 52.103. Enforcement of Rules

The district may enforce its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction. (39th Legis., Ch. 25, Sec. 3c, subsec. B(9) (part), as amended.)

§ 52.104. Improvements and Facilities

The district may:

- (1) acquire land to erect dams or to drain lakes, draws, and depressions;
- (2) construct dams;
- (3) drain lakes, depressions, draws, and creeks; and
- (4) install pumps and other equipment necessary to recharge the underground water reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(6) (part), as amended.)

§ 52.105. Sale and Distribution of Water Prohibited

No district may sell or distribute surface water or underground water for any purpose. (39th Legis., Ch. 25, Sec. 3c, subsec. B(6) (part), as amended.)

§ 52.106. Preferential-Use Provisions Inapplicable

The preferential-use provisions of Section 51.184 of this code are not applicable to underground water conservation districts. (39th Legis., Ch. 25, Sec. 3c, subsec. D(2), as amended.)

Amended by Acts 1971, 62nd Leg., p. 1770, ch. 518, § 13, eff. May 31, 1971.

§ 52.107. Engineering Surveys

The district may employ registered professional engineers to make surveys of the underground water reservoir or subdivision and surveys of the facilities for development, production, and use of the water, in order to determine the quantity of water available for production and use and to determine the improvements, development, and recharging needed by the reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(7), as amended.)

§ 52.108. Planning

(a) The district may develop comprehensive plans for the most efficient use of the underground water in the underground water reservoir or its subdivision and for controlling and preventing waste of underground water.

(b) The district shall specify in the plans, in as much detail as practicable, the acts, procedure, performance, and avoidance that are or may be necessary to effect the plans, including specifications. (39th Legis., Ch. 25, Sec. 3c, subsec. B(8) (part), as amended.)

§ 52.109. Research Projects

The district may carry out research projects, develop information, and determine limitations which should be made on withdrawing underground water from the underground water reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(8) (part), as amended.)

§ 52.110. Collection of Information

The district may collect information regarding the use of underground water and the practicability of recharging the reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(8) (part), as amended.)

§ 52.111. Publication of Plans and Information

The district may publish its plans and the information it develops, bring them to the attention of the users of underground water in the district, and encourage the users to adopt and use them. (39th Legis., Ch. 25, Sec. 3c, subsec. B(8) (part), as amended.)

§ 52.112. Records and Reports

The district may require that records be kept and reports be made of the drilling, equipping, and completing of water wells and of the production and use of underground water from the underground water reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(5) (part), as amended.)

§ 52.113. Drillers' Logs

The district may require that accurate drillers' logs be kept of water wells and that copies of drillers' logs and electric logs be filed with the district. (39th Legis., Ch. 25, Sec. 3c, subsec. B(5) (part), as amended.) Amended by Acts 1971, 62nd Leg., p. 1767, ch. 518, § 1, eff. May 31, 1971.

§ 52.114. Permits for Wells

The district may require permits for the drilling, equipping, or completing of wells, or for substantially altering the size of wells or well pumps, or for all of these operations. Permits may be issued subject to the rules made under Section 52.117 of this code and subject to terms and provisions with reference to the drilling, equipping, completion, or alteration of wells or pumps that may be necessary to conserve the underground water, prevent waste, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells. (39th Legis., Ch. 25, Sec. 3c, subsec. B(3), sen. 1, as amended.)

§ 52.115. Permit: Application and Hearing

The district shall promptly consider and pass on each application for a permit. If, within 20 days after the date it is submitted, an application has not been passed on or set for a hearing on a specific date, the applicant may petition the district court of the county where the land is locat-

ed for a writ of mandamus to compel the district to act on the application or set a date for a hearing on the application. A hearing shall be held within 30 days after the setting of the date and the district shall act on the application within 10 days after the date of the hearing. (39th Legis., Ch. 25, Sec. 3c, subsec. B(3), sen. 3, 4, 5, as amended.)

§ 52.116. Drilling, Etc., Without Permit

Except as provided by Section 52.118 of this code, no person, firm or corporation may begin to drill a well in the district, or substantially alter the size of a well or pump, which well could reasonably be expected to produce more than 100,000 gallons of water a day from the reservoir or subdivision, without first obtaining a permit from the district. (39th Legis., Ch. 25, Sec. 3c, subsec. B(3), sen. 2, as amended.)

§ 52.117. Regulation of Spacing and Production

In order to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or to prevent waste, the district may provide for the spacing of water wells and may regulate the production of wells. (39th Legis., Ch. 25, Sec. 3c, subsec. B(4), sen. 1, as amended.)

§ 52.118. Exceptions; Limitations

(a) The district may not require a permit for the drilling or producing of a well drilled, completed, and equipped so that it will not produce more than 100,000 gallons of underground water a day. (39th Legis., Ch. 25, Sec. 3c, subsec. D(4)(b), as amended.)

(b) The district shall not deny the owner of a tract of land, or his lessee, who has no well capable of producing more than 100,000 gallons a day on the tract, either a permit to drill a well on his land or the privilege to produce underground water from his land, subject to the rules of the district. (39th Legis., Ch. 25, Sec. 3c, subsec. B(4), sen. 2, as amended.)

(c) The district may not restrict the production of any well that produces less than 100,000 gallons a day. (39th Legis., Ch. 25, Sec. 3c, subsec. D(4) (c) (part), as amended.)

(d) Nothing in this chapter applies to wells drilled for oil, gas, sulphur, or brine, or for core tests, or for injection of gas, salt water, or other fluid, or for any other purpose, under permits issued by the Texas Railroad Commission. The district shall not require a permit to drill a well to supply water for drilling any of these wells permitted by the Texas Railroad Commission. When the well ceases to be used for these purposes, it may then be used as an ordinary water well if it meets the spacing and other rules of the district; and its use is subject to the rules of the district. (39th Legis., Ch. 25, Sec. 3c, subsec. D(3), D(4)(a), as amended.)

(e) Water wells exempted under this section shall be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of underground water from an underground water reservoir to any reservoir not containing underground water and to prevent the pollution or harmful alteration of the character of the water in any underground water reservoir. (39th Legis., Ch. 25, Sec. 3c, subsec. D(4)(c) (part), as amended.)

§ 52.119. Open or Uncovered Wells

(a) The district may require the owner or lessee of land on which an open or uncovered well is located to keep the well permanently closed or capped with a covering capable of sustaining weight of at least 400

pounds, except when the well is in actual use. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11) (part), as amended.)

(b) As used in this section, "open or uncovered well" means an artificial excavation at least 10 feet deep and at least 10 inches but not more than six feet in diameter, that is dug or drilled for the purpose of producing water from the underground water reservoir and is not capped or covered as required by this chapter. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11), (part), as amended.)

(c) If the owner or lessee fails or refuses to close or cap the well in compliance with this chapter within 10 days after being requested to do so in writing by an officer, agent, or employee of the district, any person, firm, or corporation employed by the district may go on the land and close or cap the well safely and securely. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11), as amended.)

(d) Expenses incurred by the district in closing or capping a well, not to exceed \$100, constitute a lien on the land on which the well is located. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11) (part), as amended.)

(e) The lien is perfected by filing in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

- (1) the existence of the well;
- (2) the legal description of the property on which the well is located;
- (3) the approximate location of the well on the property;
- (4) the failure or refusal of the owner or lessee, after notification, to close the well within 10 days after the notification;
- (5) the closing of the well by the district, or by an authorized agent, representative, or employee of the district; and
- (6) the expense incurred by the district in closing the well. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11) (part), as amended.)

(f) The district may make and enforce rules that are necessary or appropriate to effectively exercise the powers granted in this section. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11) (part), as amended.)

(g) Nothing in this section affects the enforcement of Chapter 281, Acts of the 51st Legislature, 1949 (Article 1721, Vernon's Texas Penal Code). (39th Legis., Ch. 25, Sec. 3c, subsec. B(11) (part), as amended.)

§ 52.120. Illegal Drilling and Operation of Well; Suit

(a) Drilling a well without a required permit or operating a well at a higher rate of production than the rate approved for the well is declared to be illegal, wasteful per se, and a nuisance. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 1, as amended.)

(b) A person who has an estate in land which is adjacent to the land on which the well is located, or a part which lies within one-half mile of the well, may sue in a court of competent jurisdiction to restrain or enjoin the illegal drilling or operation, or both. The suit may be brought with or without the joinder of the district. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 2, as amended.)

(c) The aggrieved party may also sue for damages for injuries he may have suffered by reason of the illegal operation and for other relief to which he may be entitled. In a suit for damages, the existence or operation of a well in violation of the rules of the district is prima facie evidence of illegal drainage. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 3, 4, as amended.)

(d) The suit may be brought in the county where the illegal well is located or in the county where all or part of the affected land is located. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 5, as amended.)

(e) The remedies provided by this section are cumulative of other remedies available to the individual or the district. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 6, as amended.)

(f) A suit brought under this section shall be advanced for trial and determined as expeditiously as possible. The court shall not grant a postponement or continuance, including a first motion, except for reasons considered imperative by the court. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 7, as amended.)

[Sections 52.121 to 52.200 reserved for expansion]

SUBCHAPTER E. TAX AND BOND PROVISIONS

Section 52.201. Limit on Taxing Power

The district may not levy or collect taxes on property in the district at a rate greater than 50 cents on the \$100 assessed valuation. (39th Legis., Ch. 25, Sec. 3c, subsec. G, as amended.)

§ 52.202. Bonds: Approval of Commission not Required

A district proposing to issue bonds is not required to submit its plans to and secure approval of the commission under Sections 51.421-51.422 of this code. (39th Legis., Ch. 25, Sec. 3c, subsec. E(2), as amended.)

[Sections 52.203 to 52.300 reserved for expansion]

SUBCHAPTER F. JUDICIAL REVIEW

Section 52.301. Suit Against District or Commission

(a) A person, firm, corporation, or association of persons affected by and dissatisfied with any provision of this chapter or with any rule or order made by a district under this chapter is entitled to file a suit against the district or its directors to challenge the validity of the law, rule, or order. The suit shall be filed in a court of competent jurisdiction in any county in which the district or any part of the district is located.

(b) A person, firm, corporation, or association of persons affected by and dissatisfied with any provision of this chapter or by an act of the commission is entitled to file suit against the commission to challenge the validity of the law or the act of the commission. The suit shall be filed in a court of competent jurisdiction in Travis County. (39th Legis., Ch. 25, Sec. 3c, subsec. F, sen. 1, as amended.)

§ 52.302. Suit to Be Expedited

A suit brought under this subchapter shall be advanced for trial and determined as expeditiously as possible. No postponement or continuance shall be granted except for reasons considered imperative by the court. (39th Legis., Ch. 25, Sec. 3c, subsec. F, sen. 2, as amended.)

§ 52.303. Trial of Suit

The burden of proof is on the petitioner, and the challenged law, rule, order, or act shall be deemed prima facie valid; but the trial shall be de novo, and the court shall determine all issues of law and fact independent of any determination by the district or the commission. (39th Legis., Ch. 25, Sec. 3c, subsec. F, sen. 3, as amended.)

§ 52.304. Subchapter Cumulative

The provisions of this subchapter do not affect other legal or equitable remedies that may be available. (39th Legis., Ch. 25, Sec. 3c, subsec. F, sen. 4, as amended.)

[Sections 52.305 to 52.400 reserved for expansion]

SUBCHAPTER G. DISSOLUTION OF DISTRICT**Section 52.401. Dissolution**

(a) A district may be dissolved in the manner provided by Sections 51.781–51.792 of this code.

(b) A district composed of territory entirely within one county may be dissolved even if it has outstanding indebtedness that matures after the year in which the district is dissolved. In this case, the commissioners court shall levy and collect taxes on all taxable property in the district in an amount sufficient to pay the principal of and interest on the indebtedness when due. The taxes shall be levied and collected in the same manner as county taxes.

(c) This section does not apply to any district composed of territory in more than one county. (39th Legis., Ch. 25, Sec. 3c, subsec. H, as amended.)

CHAPTER 53. FRESH WATER SUPPLY DISTRICTS**SUBCHAPTER A. GENERAL PROVISIONS****Section****53.001. Definitions.**

[Sections 53.002 to 53.010 reserved for expansion]

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- 53.268. Discharge of Excluded Land from Obligations.
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- 53.271. Rights after Exclusion.
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- 53.273. Findings of Fact by the Supervisors.

SUBCHAPTER A. GENERAL PROVISIONS**Section 53.001. Definitions**

In this chapter:

- (1) "District" means a fresh water supply district established under this chapter.
- (2) "Board" means the board of supervisors of a district.
- (3) "Improvement" means a facility for conserving, transporting, or distributing fresh water. (New.)

[Sections 53.002 to 53.010 reserved for expansion]

SUBCHAPTER B. CREATING AND DIVIDING A DISTRICT**Section 53.011. Creating a District**

A district is created by petition, hearing, and election. (New.)

§ 53.012. Cities and Towns

Cities and towns are includable in a district. (R.S. Art. 7881, sen. 3.)

§ 53.013. Presenting Petition

A person may present a petition requesting creation of a district to the commissioners court of the county which includes the land in the proposed district. If the commissioners court is not in session, the petition may be presented to the county judge. (R.S. Art. 7882, sen. 1.)

§ 53.014. Requisites of Petition

To be sufficient, the petition must:

- (1) contain the signatures of 50 or a majority of the electors of the proposed district who own land in the proposed district; and
- (2) state:
 - (A) the boundaries of the proposed district;
 - (B) the general nature of the projects proposed to be done;
 - (C) the necessity for the proposed district;
 - (D) the feasibility of the proposed district; and
 - (E) the proposed name for the district, which must include the name of the county in which it is situated. (R.S. Art. 7882, sen. 2.)

§ 53.015. Deposit

The person who presents the petition shall at the same time pay a deposit of \$100 to the county clerk. The clerk shall pay out the deposit on vouchers approved by the county judge for all expenses necessary for the hearing and the election for the creation of the district. After the election, the clerk shall return any portion of the deposit which is left to the petitioners or their attorney. (R.S. Art. 7883.)

§ 53.016. Time and Place of Hearing

The commissioners court or county judge shall immediately set a time and place for a hearing on the petition by the commissioners court. The

hearing must be held during the period beginning on the 15th day and ending with the 30th day after the day the petition is presented. (R.S. Art. 7884, sen. 1 (part), as amended.)

§ 53.017. Notice

(a) The county clerk shall issue notice of the time and place of the hearing, and in the notice he shall include a statement that any person is entitled to appear at the hearing, challenge the form and allegations of the petition, and contest the proposition that the projects to be undertaken by the proposed district would benefit the land inside its boundaries.

(b) The county clerk may deliver the notice to any adult who is willing to execute it as directed by Section 53.018 of this code. (R.S. Art. 7884, sen. 1 (part), 2, as amended.)

§ 53.018. Posting Notice

(a) The person receiving the notice shall post a copy of it at the courthouse door and a copy at each of four different places inside the proposed district. He shall post the notice for at least the 10 days that immediately precede the day set for the hearing.

(b) The person posting the notice shall swear in writing, before some officer who is authorized by law to administer oaths, that he posted the notice according to the provisions of Subsection (a) of this section. The sworn written statement is conclusive of the facts sworn to. (R.S. Art. 7885.)

§ 53.019. Hearing Powers

(a) The commissioners court shall have jurisdiction to determine all issues pertaining to the sufficiency of the petition and shall allow any interested person to appear before it in person or by attorney to offer testimony relative to the sufficiency of the petition. (R.S. Art. 7886, sen. 1, 2.)

(b) The commissioners court may adjourn the hearing from day to day as is necessary to complete the hearing. (R.S. Art. 7886, sen. 3.)

(c) The commissioners court may make all orders necessary to determine the matters before it. (R.S. Art. 7885, sen. 4.)

§ 53.020. Findings; Ordering Election

(a) The commissioners court shall order an election to determine whether or not the proposed district shall be created, if, at the hearing of the petition, the commissioners court finds:

(1) that the petition conforms to the requirements of Section 53.014 of this code;

(2) that the projects to be undertaken by the proposed district are feasible, practical, and necessary; and

(3) that the projects would benefit the land inside the proposed district.

(b) The commissioners court by order shall set the day for the election, which must be held during the period beginning on the 20th day and ending with the 30th day after the day the order is made. (R.S. Art. 7887 (part), as amended.)

§ 53.021. Officers to be Elected

In the election, five supervisors and the tax assessor and collector are elected. (R.S. Art. 7887 (part), as amended.)

§ 53.022. Notice of Election

(a) The commissioners court shall prepare a notice of the election, stating:

- (1) the time and places of holding the election;
- (2) the boundaries of the proposed district;
- (3) the proposition to be voted on;
- (4) the officers to be voted for; and
- (5) the presiding officers appointed to hold the election.

(b) The county clerk shall post the notice at the courthouse door for at least the 20 days immediately preceding the day of the election. (R.S. Art. 7888.)

§ 53.023. Conduct of Election

The commissioners court shall select and name the polling places for each election. Each district is an election precinct for an election held under this chapter. The commissioners court shall appoint a presiding judge, one other judge, and two clerks for each polling place. (R.S. Art. 7889.)

§ 53.024. Ballot for Election

The commissioners court shall provide the ballots for the election, and on each ballot the commissioners court shall have only the following information printed:

- (1) the proposition relating to creation of the district;
- (2) the names of the persons who were recommended as supervisors and as tax assessor and collector in the petition;
- (3) five blank lines under an appropriate heading for write-in votes for the office of supervisor; and
- (4) one blank line under an appropriate heading for a write-in vote for the office of tax assessor and collector. (R.S. Art. 7890.)

§ 53.025. Returns; Canvass

Immediately after the election, the presiding judges shall make out and deliver the returns in the same manner that returns are made out and delivered in general elections. The commissioners court, at a regular or called session, shall immediately canvass the returns and declare the result. (R.S. Art. 7892, sen. 1, 2 (part).)

§ 53.026. Declaration of Result

(a) If the result of the election is in favor of creating the district, then the commissioners court shall make and enter in its minutes an order substantially in this form: "_____ and _____ others having petitioned for the creation of _____ County Fresh Water Supply District No. _____; an election having been held in the proposed district on _____; and a majority of the votes cast in the election having favored creation of the district; now, therefore, the court declares that _____ County Fresh Water Supply District No. _____ is created, with the following metes and bounds: (Field notes)."

(b) The first district created in a county is "No. 1," the second district is "No. 2," and so on consecutively. (R.S. Art. 7893.)

§ 53.027. Recordation of Order

After entering the order creating the district, the commissioners court shall make a certified copy of the order. The commissioners court shall file this copy with the county clerk. The county clerk shall record the certified copy in the deed records of the county. Recording the order gives notice of its contents to the same extent that recording a deed gives

notice of its contents. The district shall pay all costs of making and recording the copy. (R.S. Art. 7894.)

§ 53.028. Certificates of Election

The commissioners court shall issue certificates of election to the five persons receiving the most votes for supervisor and to the person receiving the most votes for tax assessor and collector. If two or more persons receive the same number of votes for the position of fifth supervisor, the commissioners court shall select one of them to be the fifth supervisor. (R.S. Art. 7892, sen. 2 (part), 3.)

§ 53.029. Division of Certain Districts

A district located in a county having a population of 800,000 or more, according to the last preceding federal census, may be divided into two new districts if it has no outstanding bonded debt and is not levying ad valorem taxes. The division procedure is prescribed by Sections 53.030 to 53.041 of this code. (54th Legis., Ch. 174, Sec. 1 (part).)

§ 53.030. Ordering Election

The board may order a special election on its own motion or on presentation of a petition signed by 20 or more qualified property taxpaying electors of the district. (54th Legis., Ch. 174, Sec. 1 (part).)

§ 53.031. Order: Metes and Bounds

The petition for election and the order and notices of election must set forth the metes and bounds of the two proposed new districts. (54th Legis., Ch. 174, Sec. 2, sen. 1.)

§ 53.032. Order: Time of Election

In the order the board shall set the time for the election, which must be held before the expiration of the 30th day after the day the order is made. (54th Legis., Ch. 174, Sec. 2, sen. 2 (part).)

§ 53.033. Order: Election of Supervisors

The board shall include in the order a statement that if the election results in division of the district, the two new districts will each be governed by a board of five supervisors elected in the same election. (54th Legis., Ch. 174, Sec. 2, sen. 4.)

§ 53.034. Order: Division of Property and Money

In the election order the board shall state in a general way how the properties and any money on hand will be divided between the two new districts if the election is in favor of dividing into two districts. The basis set by the board is controlling. (54th Legis., Ch. 174, Sec. 2, sen. 6.)

§ 53.035. Notice of Election

The board shall give notice of the election by:

- (1) posting copies of the election order at each of three public places inside the district for at least the 10 days immediately preceding the date of the election; or
- (2) publishing the order in a newspaper of general circulation in the county in which the district is located; or
- (3) both posting and publishing the order. (54th Legis., Ch. 174, Sec. 2, sen. 2 (part).)

§ 53.036. Candidates for Supervisor

(a) To be qualified for election as a supervisor of one of the proposed new districts, a person must:

(1) be a resident of the territory to be included in the new district;

(2) have been a resident of the county for six months and the state for one year immediately preceding the day of the election; and

(3) have the qualifications prescribed by Section 53.063 of this code for supervisors.

(b) A qualified person may have his name printed on the ballot as a candidate for supervisor of a proposed new district by filing a written application with the secretary of the board of supervisors of the existing district at least 10 days before the day of the election. (54th Legis., Ch. 174, Sec. 4, sen. 1, 2, 3.)

§ 53.037. Ballots and Election Supplies

The board shall furnish the ballots and election supplies necessary to hold the election. The board shall pay for the ballots, election supplies, and other expenses of the election from district funds. (54th Legis., Ch. 174, Sec. 3, sen. 1, 2.)

§ 53.038. Conduct of Election

The board shall appoint a presiding judge and two or more clerks to assist him in holding the election. The election is governed by the general election laws except as otherwise provided in this chapter. (54th Legis., Ch. 174, Sec. 2, sen. 3.)

§ 53.039. Canvassing Returns

Immediately after the election is held, the presiding judge shall make out and deliver the returns to the board, and the board shall then canvass the returns and declare the result. (54th Legis., Ch. 174, Sec. 3, sen. 3.)

§ 53.040. Elected Supervisors Take Office

If the election results in a division of the district, the five candidates receiving the most votes in each new district shall be declared elected. They shall immediately qualify by taking the constitutional oath of office and shall file the oath with the county clerk. (54th Legis., Ch. 174, Sec. 4, sen. 4 (part).)

§ 53.041. Completing Membership of the Board

If no supervisors are elected, or if a full board is not elected, the commissioners court shall appoint the needed members of the board. (54th Legis., Ch. 174, Sec. 2, sen. 5.)

§ 53.042. Newly Elected Supervisors—Term of Office

The newly elected supervisors hold office until the new district's first general election and then until their successors are elected and have qualified. (54th Legis., Ch. 174, Sec. 4, sen. 4 (part), 5.)

§ 53.043. Powers of New District

A district created by the division of an existing district into two districts has all the powers and duties given by this chapter to any other district. (54th Legis., Ch. 174, Sec. 5.)

[Sections 53.044 to 53.060 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 53.061. Creation of District

A commissioners court may create one or more fresh water supply districts in its county by following the procedure prescribed in Sections 53.011-53.029 of this code. (R.S. Art. 7881, sen. 1 (part).)

§ 53.062. Board of Supervisors

A district created under this chapter is governed by a board of five elected supervisors. Specific provisions for the election of supervisors are found in Section 53.021 (creation election) and Section 53.086 (biennial general election) of this code. (New.)

§ 53.063. Supervisor's Qualifications

To be qualified for election as a supervisor, a person must be:

- (1) a resident of the district;
- (2) an owner of land in the district; and
- (3) 21 years old or older at the time of his election. (R.S. Art. 7900.)

§ 53.064. Terms of Office and Succession

(a) The first elected supervisors hold office until the first general election of officers following their election. Their successors hold office for a term of two years.

(b) The provisions of Section 55.113 of this code govern the filling of a vacancy on the board of supervisors. (R.S. Art. 7901.)

§ 53.065. Board Officers and Meetings

(a) After each biennial election, the board shall organize by electing one of its members president.

(b) The board may appoint a secretary and may pay him a salary of \$150 a month or less.

(c) Three supervisors constitute a quorum, and a concurrence of three is necessary, for transacting any of the business of the district. (R.S. Art. 7903.)

(d) The board shall have an office in the district and shall hold meetings at the office at 10 a.m. on the first Monday in February, May, August, and November of each year. The board shall also hold special meetings at the office.

(e) A taxpayer, resident, or interested person may attend any meeting of the board. No person may participate in a meeting without the consent of the board. If given permission by the board, a person may present in an orderly manner any matter at the meeting. (R.S. Art. 7904.)

§ 53.066. Board Records

(a) The board shall keep an accurate record of all its meetings and proceedings.

(b) The board shall keep contracts, records of notices, duplicate vouchers, duplicate receipts, and all other accounts and records in a fireproof vault or safe. It shall deliver the records, which are the property of the district, to its successors in office. (R.S. Art. 7905.)

§ 53.067. Supervisor's Bond

Within 10 days after the commissioners court enters the order creating the district each supervisor shall execute a good and sufficient bond for

\$5,000, payable to the district and approved by the commissioners court, conditioned on the faithful performance of his duties. (R.S. Art. 7896, sen. 1.)

§ 53.068. Supervisor's Oath

Each supervisor shall take the oath of office provided by statute for county commissioners. A supervisor, when taking the oath, shall substitute the name of the district for the name of the county. (R.S. Art. 7896, sen. 2.)

§ 53.069. Recording the Oath and Bond

(a) The commissioners court shall file each supervisor's bond and oath with the county clerk. The county clerk shall record the bond and the oath in the official bond records of the county.

(b) The county clerk shall deliver bonds filed with him to the district depository. The district depository shall keep the bonds as district records. (R.S. Art. 7896, sen. 3, 4.)

§ 53.070. Supervisor's Compensation

(a) A supervisor is entitled to receive for his services not more than \$25 for each day he actually engages in the work of the district.

(b) Before a supervisor may receive compensation for his services, he must submit a statement of his services similar to the one required by Section 55.111(b) of this code. (R.S. Art. 7902.)

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 942, ch. 154, § 2, eff. Aug. 30, 1971.

§ 53.071. District Assessor and Collector

One person shall serve as both assessor and tax collector for the district. The tax assessor and collector is elected. The first assessor and collector is elected at the election to create the district. (R.S. Art. 7895, sen. 1.)

§ 53.072. Assessor and Collector's Qualifications

To be qualified for election as assessor and collector, a person must be a resident of the district and a qualified voter in the district. (R.S. Art. 7895, sen. 4.)

§ 53.073. Assessor and Collector's Term of Office

The first elected assessor and collector holds office until the next general election of officers following his election. The succeeding assessor and collectors hold office for terms of two years. The board shall fill any vacancy in the office of assessor and collector by appointment for the unexpired term. (R.S. Art. 7895, sen. 6, 7, 8.)

§ 53.074. Assessor and Collector's Bond

(a) Before beginning to perform his duties, the assessor and collector must execute a good and sufficient bond for \$5,000, payable to the district and approved by the commissioners court, conditioned on the faithful performance of his duties and on paying to the district depository all money which he receives as collector.

(b) The board may require the assessor and collector to execute additional bonded security. (R.S. Art. 7895, sen. 2, 3.)

§ 53.075. Assessor and Collector's Salary

The board shall fix the salary of the assessor and collector at \$2,400 a year or less. (R.S. Art. 7895, sen. 5.)

§ 53.076. District Engineer

The board may employ an engineer. (R.S. Art. 7912, sen. 1 (part).)

§ 53.077. Engineer's Compensation

The board shall fix the salary of the engineer at \$3,600 a year or less. (R.S. Art. 7912, sen. 2.)

§ 53.078. Establishment of Board of Equalization

At their first regular meeting, or as soon after that as practicable, the supervisors shall appoint three commissioners to be the board of equalization. The supervisors shall appoint the board of equalization members annually. (R.S. Art. 7948, sen. 1 (part).)

§ 53.079. Qualifications of Members of Board of Equalization

Each member of the board of equalization must be a qualified voter and resident property owner of the district. (New.)

§ 53.080. Oath of Members of Board of Equalization

Before beginning his duties each member of the board of equalization shall take the following oath: "I, _____, do solemnly swear that I will, to the best of my ability, make a full and complete examination, correction, equalization, and appraisalment of all property in the district, as shown by the assessment list or books of the district assessor." The board shall enter each oath in the minutes. (R.S. Art. 7949.)

§ 53.081. Duties of Board of Equalization

The board of equalization has the same powers and duties with respect to the district as are provided by law for equalization boards of water improvement districts. (R.S. Art. 7950.)

§ 53.082. Meetings of Board of Equalization

At the meeting at which the board of equalization members are appointed, the board of supervisors shall set the time for the meeting of the board of equalization for the first year. At the first meeting, the board of equalization shall receive all assessments, lists, and books of the district assessor for examination, correction, equalization, appraisalment, and approval. At all meetings of the board, a secretary shall keep a permanent record of the proceedings. (R.S. Art. 7948, sen. 1 (part), 2, 3.)

§ 53.083. Compensation of Board of Equalization Members and Secretary

Each member of the board of equalization is entitled to receive not more than \$5 a day for his services for the time actually engaged in discharging his duties. The secretary of the board of equalization is entitled to receive the same compensation as a board member. (R.S. Art. 7948, sen. 4.)

§ 53.084. Required Official Bonds

A bond required of an officer or employee of the district is governed by the provisions of Section 55.123 of this code, which governs the approval and furnishing of bonds by surety companies for officers and employees of water improvement districts. (R.S. Art. 7913.)

§ 53.085. Compensation of Other Officers

(a) If the compensation of an officer of a district is not provided for in this chapter, the district shall pay him the same compensation that he would receive for doing similar service as an officer of the county.

(b) The district shall pay a clerk who records orders the same compensation that a county clerk is paid for recording deeds. The district shall pay a person who posts notices the same compensation that a sheriff is paid for officially posting notices. (R.S. Art. 7898.)

§ 53.086. Date for General Elections

The district shall hold a general election every second year to elect five supervisors and one assessor and collector. The district shall hold the election on the first Tuesday in January. If the first Tuesday in January is a state or national holiday, the district shall hold the election on the next Tuesday. (R.S. Art. 7897, as amended.)

§ 53.087. District Seal

The district shall have a common seal which is circular in form with the name of the district surrounding a five-pointed star. (R.S. Art. 7916.)

§ 53.088. Status of the District

(a) A district is:

(1) a governmental agency;

(2) a body politic and corporate; and

(3) a defined district within the meaning of Article XVI, Section 59, of the Texas Constitution.

(b) A district may, through its board, sue and be sued in any court of this state in the name of the district. All courts of this state shall take judicial notice of the creation of a district. A district shall contract and be contracted with in the name of the district. (R.S. Art. 7915.)

§ 53.089. Filling Offices Vacant Due to Lack of Candidates

(a) After a district has issued any bonds, if there are not enough qualified persons to fill all the offices of the district, an owner of any of the bonds may file a petition with the county clerk of any county in which the district is located to have the commissioners court appoint a board of supervisors and a secretary for the board for the district. The person who files the petition shall address the petition to the commissioners court and set forth the facts as to the insufficiency of the number of qualified persons. (R.S. Art. 7959—a, sen. 1.)

(b) When the petition is filed, the county judge shall by order set a date for a hearing on the merits of the petition and the commissioners court shall hold the hearing during the period beginning on the 30th day and ending with the 60th day after the day the petition is filed. The commissioners court shall give notice of the hearing, setting forth the time and place of the hearing and a brief description of the purpose of the hearing. The commissioners court shall have the notices posted in four places in the district and at the courthouse door. The commissioners court shall have the notices posted for at least the 20 days immediately preceding the day of the hearing. The commissioners court shall hold the hearing in the courtroom of the commissioners court. The commissioners court has exclusive original jurisdiction to hear and determine the matters and facts involved in the hearing. A district court of the county may review the findings and judgment of the commissioners court. (R.S. Art. 7959—a, sen. 2, 3, 4, 5.)

(c) If there is no governing body or board of supervisors of a district, this fact is prima facie proof that there are not enough qualified persons who are residents and property owners in the district to fill all the offices of the district. In this case, the petitioning bond owners are entitled to the relief given by this section. (R.S. Art. 7959—a, sen. 6.)

(d) If the commissioners court finds that the allegations in the petition are true and sufficient, the commissioners court shall enter its judgment and decree and appoint three disinterested commissioners to be the board of supervisors and the board of equalization of the district. (R.S. Art. 7959—a, sen. 7.)

(e) An appointed commissioner must be a landowner of the county in which the district is located. He may or may not own land inside the district for which he is to act. No appointed commissioner may be related within the fourth degree of affinity or consanguinity to a member of the commissioners court that appoints him. (R.S. Art. 7959—a, sen. 8.)

(f) A commissioner who is appointed by the commissioners court shall be 21 years old or older. The appointed board and its secretary have the same powers and duties and are entitled to receive the same compensation as a regularly appointed board and its secretary. (R.S. Art. 7959—a, sen. 9, 10, 11.)

(g) If the commissioners court appoints commissioners as provided in Subsection (d) of this section, the tax assessor and collector of the county in which the district is located shall be ex officio tax assessor and collector of the district. If the positions of tax assessor and tax collector for the county are filled by two different persons, these persons shall fill the same positions, respectively, for the district. The county assessor and collector is entitled to receive the same compensation for his services as does a regularly elected district assessor and collector. (R.S. Art. 7959—a, sen. 12, 13, 14.)

(h) The commissioners court that grants the relief provided for in this section shall levy taxes on all taxable property inside the district in an amount sufficient to pay the interest on the bonds as it accrues and the principal as it matures. The tax assessor and collector shall assess and collect these taxes. (R.S. Art. 7959—a, sen. 15.)

[Sections 53.090 to 53.100 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 53.101. Purpose of District

Fresh water supply districts may be created to conserve, transport, and distribute fresh water from any sources for domestic and commercial purposes. (R.S. Art. 7881, sen. 1 (part), 2.)

§ 53.102. Constitutional Basis

The constitutional basis for this chapter is Article XVI, Section 59, of the Texas Constitution. (R.S. Art. 7881, sen. 1 (part).)

§ 53.103. Governmental Powers of District

A district has the powers of government and authority to exercise the rights, privileges, and functions given to it by this chapter or by any other state law. (R.S. Art. 7917, sen. 1.)

§ 53.104. Authority to Acquire Water Rights

A district may acquire water rights and privileges in any way that an individual or corporation may acquire them. A district may hold water rights and privileges, either by gift, purchase, devise, appropriation, or by other means. (R.S. Art. 7917, sen. 2.)

§ 53.105. Duties—In General

The board shall control and manage the affairs of the district, including:

- (1) making all contracts for the district;
- (2) controlling the construction of all improvements and other works inside and outside the district; and
- (3) controlling the transportation and distribution of the water of the district. (R.S. Art. 7909.)

§ 53.106. Employees

The board may employ all necessary employees for the district, including:

- (1) a general manager;
- (2) attorneys;
- (3) a bookkeeper;
- (4) an engineer; and
- (5) assistants and laborers. (R.S. Art. 7911.)

§ 53.107. Distribution of Water and Use of Revenues Obtained from Distribution of Water

(a) The board shall:

- (1) prescribe the terms on which water will be furnished;
- (2) fix the rate to be paid by users of water from the district; and
- (3) make rules and regulations governing the distribution and use of water. (R.S. Art. 7910, sen. 1 (part).)

(b) The board shall apply any revenue obtained from the sale of water to operation and maintenance expenses. Any revenue left after paying these expenses shall be used to pay interest on bonds and other indebtedness incurred by the district with the remainder to be placed in the sinking fund. (R.S. Art. 7910, sen. 1 (part).)

§ 53.108. Right to Enter Land

The supervisors and employees of a district may go on any land inside or outside the district to examine the land with reference to:

- (1) the location of improvements to be constructed by the district; and
- (2) any other lawful purpose in regard to conserving, transporting, and distributing water. (R.S. Art. 7923.)

§ 53.109. Power of Eminent Domain

(a) The district may exercise the power of eminent domain to acquire the fee simple title, easement, or right-of-way over and through any public or private land, water, or land under water, inside or outside the district, necessary to construct and operate the improvements authorized by this chapter and to connect with pipelines belonging to other districts.

(b) The district may not exercise the power of eminent domain to take a right-of-way over or through:

- (1) a park;
- (2) a cemetery;
- (3) a manufacturing establishment; or
- (4) an established and developed waterpower existing at the time the district is created.

(c) The district shall pay fair and just compensation to the owners of pipelines in other districts to which the district connects its improvements. The district may connect its improvements with those of other districts only when the use will not impair the supply or service of the other districts.

(d) The board shall institute eminent domain proceedings in the name of the district. (R.S. Art. 7924, as amended.)

§ 53.110. Acquisition of Right-of-Way

(a) The district may acquire the rights-of-way for necessary improvements by gift, grant, purchase, or condemnation proceedings.

(b) The district may construct and maintain improvements inside and outside the district on the land it acquires. (R.S. Art. 7926.)

§ 53.111. Right-of-Way across Roads

A district has the right-of-way across any public or county road. The district shall restore the roads where crossed as nearly as is possible to their previous condition. (R.S. Art. 7927.)

§ 53.112. Use of Roadways

In order to secure fresh water, a district may construct necessary levees, bridges, and other improvements across or under:

- (1) railroad embankments, tracks, or rights-of-way;
- (2) public or private roads and their rights-of-way;
- (3) rivers;
- (4) improvements of other districts and their rights-of-way; and
- (5) other improvements and their rights-of-way. (R.S. Art. 7928.)

§ 53.113. Constructing Improvements on Railroad Ways

(a) Before the district may construct an improvement across or under any railroad property, the district must notify the railroad authorities of the district's intention to construct the improvement if the railroad does not do so.

(b) The railroad has 30 days from the day it receives the notice in which to decide whether or not to build the improvement itself, at its own expense and according to its own plans.

(c) If the railroad builds the improvement, it must do so in a manner which is satisfactory to the district. (R.S. Art. 7929.)

§ 53.114. Power to Construct Improvements

(a) A district may build and maintain necessary works and improvements inside and outside the district.

(b) A district may make any contracts necessary to build and maintain works and improvements. A district may employ any persons and means necessary to build and maintain works and improvements.

(c) With the consent of the proper governing bodies, a district may, if necessary, take over, by purchase or otherwise, all or part of any water plants or systems inside the district. (R.S. Art. 7918.)

§ 53.115. Duties of Engineer

(a) The engineer shall make maps and profiles of the district improvements, including any part of the improvements which extends beyond the boundaries of the district.

(b) The engineer may adopt other correct maps, plats, and surveys.

(c) The engineer shall perform other duties required of him by the board. (R.S. Art. 7912, sen. 1 (part), 3.)

§ 53.116. Construction Contracts

(a) A district may enter into necessary contracts for authorized construction and repairs. (47th Legis., Ch. 129, Sec. 10, sen. 1.)

(b) Before awarding a contract of \$1,000 or more, the board shall ask for competitive bids on uniform written specifications, after advertising one time in a newspaper of general circulation in the county or district

for at least five days before opening bids. (47th Legis., Ch. 129, Sec. 10, sen. 2.)

(c) The board shall award each contract to the lowest and best bidder. (47th Legis., Ch. 129, Sec. 10, sen. 3 (part).)

(d) The board shall require each contractor to execute a surety bond in a sum equal to the amount of the contract, to insure the faithful performance of the contract and payment for labor and materials. (47th Legis., Ch. 129, Sec. 10, sen. 3 (part).)

(e) The bond shall be approved by the board and deposited with the depository, and a true copy of the bond shall be retained in the office of the district secretary. (R.S. Art. 7920, sen. 2.)

(f) When the amount is \$1,000 or less, but more than \$150, the board may receive bids and award contracts without advertising or requiring bond. (47th Legis., Ch. 129, Sec. 10, sen. 4.)

(g) When the amount is \$150 or less, the board may purchase on emergency requisitions. All of the provisions of Articles 1667 through 1673, Revised Civil Statutes of Texas, 1925, as amended, apply to the accounting of the district and the record of purchases, except as otherwise provided in this section. (47th Legis., Ch. 129, Sec. 10, sen. 5.)

§ 53.117. Formal Requirements of a District Contract

To be effective, a contract made by the board must be in writing and signed by the contractor and at least three supervisors. The board shall file a copy of each contract with the depository, where it may be inspected by any interested person. (R.S. Art. 7919, sen. 2.)

§ 53.118. Performance of Contract

The contractor shall fulfill the contract in accordance with the specifications and under the supervision of the board and the district engineer. The engineer shall inspect the work and report on the progress of the work. (R.S. Art. 7921, sen. 1, 2 (part).)

§ 53.119. Payment of Contracts

The board shall pay for the work in the manner provided for by law for contracts executed by water control and preservation districts. (R.S. Art. 7921, sen. 2 (part).)

§ 53.120. Power to Purchase Equipment

The board may buy necessary equipment and supplies that are required to construct, operate, and maintain the works and improvements of the district. (R.S. Art. 7914.)

§ 53.121. Constructing Sanitary Sewer Systems

(a) A district may purchase, construct, acquire, own, operate, repair, improve, and extend sanitary sewer systems to control wastes, if no other public sanitary sewer system is available for the area inside the fresh water supply district.

(b) Before a district may exercise the power given by this section, it must hold an election in the same manner as provided in this chapter for other elections of the district. (47th Legis., Ch. 129, Sec. 1, as amended.)

§ 53.122. Regulating Sanitary Conditions inside the District

(a) A district may regulate the installation, maintenance, and operation of plumbing fixtures and facilities inside the district for the purpose of:

- (1) maintaining safe and sanitary conditions; and
- (2) protecting the lives, health, and welfare of the people in the district.

(b) The board may set a reasonable penalty for violating any rule authorized by Subsection (a) of this section, within these limits:

- (1) a fine of not more than \$200;
- (2) confinement in the county jail for not more than 30 days; or
- (3) both the fine and the jail sentence.

(c) The penalty set by the supervisors is in addition to other penalties provided by law. A court of proper jurisdiction in the county where the district's principal office is located may enforce the penalties.

(d) A penalty for the violation of a rule is not valid unless a brief, substantial statement of the rule and the penalty is published once a week for two consecutive weeks in a newspaper of general circulation in the area in which the district is located. A penalty takes effect seven days after the second publication.

(e) The courts shall take judicial notice of the rules made by a district under this section. (47th Legis., Ch. 129, Sec. 5, sen. 1, 2, 3.)

§ 53.123. Interest in District Contract

(a) No supervisor, engineer, or employee of the district may have a direct or indirect interest in any contract for:

- (1) the purchase of material needed by the district; or
- (2) the construction of improvements by the district.

(b) A person who violates any provision of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by:

- (1) a fine of not more than \$1,000 or confinement in the county jail for not less than six months nor more than one year, or by both; and
- (2) removal from office and disqualification for further employment by the district. (P.C. Art. 378.)

§ 53.124. Peace Officers

(a) A district may deputize peace officers, who may arrest any person who violates a rule of the district or a law of the state.

(b) The power of arrest of a peace officer appointed by a district extends only to offenses committed inside the district. (47th Legis., Ch. 129, Sec. 5, sen. 4.)

§ 53.125. Joint Projects

A district may act jointly with other districts, political subdivisions, cities, towns, states, and the federal government in exercising any power given by this chapter. The supervisors shall set the terms on which joint projects will be carried out. (R.S. Art. 7930.)

§ 53.126. Effect of Enumeration of Powers

No statement of specific powers in this chapter is a limitation on the general powers given by this chapter, unless it is specifically so stated. (R.S. Art. 7917, sen. 3.)

[Sections 53.127 to 53.140 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Section 53.141. May Borrow Money

A district may borrow money to accomplish the purposes stated in Section 53.101 of this code. (R.S. Art. 7922, sen. 1, as amended.)

§ 53.142. Notes as Security

(a) The board may, without an election, borrow money on notes of the district at a rate of interest of six percent or less a year.

(b) The district shall pay these notes solely from gross revenues of the district's water system, less the reasonable cost of maintaining and operating the system. No obligation to pay these notes may ever be a charge on the property of the district or on taxes levied or collected by the district. The obligation is solely a charge on the revenues pledged for their payment. The district shall not pay any part of the obligation from taxes levied or collected by the district.

(c) The issuance of each note must be authorized by a majority vote of the board and the board, at the time of the authorization, shall set rates and charges for the use of the facilities or the services rendered by the district. The board shall set the rates in an amount sufficient to assure the prompt payment of the principal of and interest on the notes as they mature. (R.S. Art. 7922, sen. 3, 4, as amended.)

§ 53.143. Vouchers

(a) At least three supervisors shall sign each voucher to be paid by the district. Each voucher shall refer to the book and page of the minutes which authorized the payments.

(b) The board shall issue all vouchers from a regular duplicate book and shall retain the duplicates as part of the district records. (R.S. Art. 7906.)

§ 53.144. Payment of Organization Expenses

The board may pay all necessary expenses of creating the district and may reimburse any person, corporation, or association for money advanced to create or organize the district. The board shall pay these expenses from money obtained from the sale of bonds. (R.S. Art. 7899.)

§ 53.145. Payment of Election Expenses

The board shall pay all expenses of calling and holding each election, except the creation election, from any district funds except the interest and sinking fund. (R.S. Art. 7934.)

§ 53.146. Maintenance Fund

(a) A district shall have a maintenance and operating fund. The fund consists of all money collected by assessment or otherwise for maintaining and operating the property of the district.

(b) The board shall use the money in this fund to pay:

- (1) all salaries of officers and employees, other than that of the assessor and collector; and
- (2) operating expenses. (R.S. Art. 7957.)

§ 53.147. Payment of Premiums on Surety Bonds

The board may pay the premiums on surety bonds required of officials and employees of the district out of any available funds of the district. (47th Legis., Ch. 129, Sec. 8.)

§ 53.148. District Depository

(a) The board shall select a depository for the district in accordance with the provisions of law relating to the selection of county depositories. The duties of the depository are governed by the law relating to county depositories.

(b) In the selection of the depository, the board shall act in the same capacity as does the commissioners court in the selection of county depositories.

(c) The depository shall act as district treasurer and shall execute a bond in an amount determined by the board. The depository shall make and file reports and shall preserve the district records as required of depositories for water improvement districts by Section 55.426 of this code. (R.S. Art. 7907.)

§ 53.149. District Audit

(a) The board shall keep a complete record of accounts for the district. They shall, on June 1 of each year, appoint an auditor. The auditor shall examine the accounts, books, and reports of the depository, the assessor and collector, and the board.

(b) The auditor shall make a full written report showing in detail for what purposes the money from each fund has been expended. He shall file a copy of the report with the district depository, a copy with the board, and a copy with the county clerk.

(c) The auditor shall file the report on or before September 1 of each year. (R.S. Art. 7908.)

§ 53.150. Payment of Damages

The district shall pay out of any funds or property of the district, except the interest and sinking fund:

(1) compensation and damages adjudicated in condemnation proceedings; and

(2) compensation for damage done to the property of any person or corporation in the construction and maintenance of improvements. (R.S. Art. 7925.)

§ 53.151. Cost of Sanitary Sewer Systems

(a) The board may pay the cost of acquiring and repairing sanitary sewer systems from:

(1) the proceeds of sale of bonds or other obligations issued by the district;

(2) revenue obtained from maintenance taxes; or

(3) revenue from the operation of the district's improvements.

(b) The board may pay the cost of maintaining and operating sanitary sewer systems with funds obtained from maintenance taxes or from operating revenues. The board may not pay these costs with borrowed money. (47th Legis., Ch. 129, Sec. 3.)

[Sections 53.152 to 53.170 reserved for expansion]

SUBCHAPTER F. BOND AND TAX PROVISIONS

Section 53.171. Power to Issue Bonds

(a) A district may issue bonds to secure indebtedness.

(b) A district may not issue tax bonds or incur any debt which is to be paid with tax revenue unless an election is first held in the district and the proposition is approved by a majority of the electors of the district who vote in the election. (R.S. Art. 7922, sen. 2, as amended.)

§ 53.172. Ordering Bond Election

After the creation of a district and the qualification of the supervisors, the board may order an election in the district to authorize a bond issue. The board shall set the day for the election, which must be held during

the period beginning on the 20th day and ending with the 30th day after the day of the order. At this election, the board shall submit only a proposition authorizing the issuance of bonds and the levy of a tax to pay the bonds. The ballots shall be printed to allow for voting for or against the proposition: "The issuance of bonds and the levy of taxes to pay the bonds." (R.S. Art. 7931.)

§ 53.173. Notice of Election

(a) The board shall give notice of the bond election, stating the amount of bonds to be issued. The board shall post a copy of the notice in four public places in the district, including a copy at the courthouse door. The board shall have the notice posted during the 20-day period immediately preceding the day of the election.

(b) The board shall have printed on the notice:

- (1) the proposition to be voted on; and
- (2) an estimate of the probable cost of constructing or purchasing the proposed improvement and the incidental expenses connected with the construction or purchase. (R.S. Art. 7932.)

§ 53.174. Conduct of Bond Election

The board shall select polling places in the district and shall appoint a presiding judge, one other judge, and two clerks for each polling place. The board shall provide the necessary ballots for the election and shall have printed on them the proposition to be submitted. (R.S. Art. 7933.)

§ 53.175. Canvassing Bond Election Results

Immediately after the election, the presiding judge of each polling place shall return the result in the same manner as results are returned in general elections for state and county officers. The judge shall return the result to the board, which shall, at a regular or special session, canvass the vote. If a majority of the votes favor issuing bonds and levying taxes, the board shall declare the result and enter it in the minutes. (R.S. Art. 7935.)

§ 53.176. Issuing Bonds

(a) After declaring the result of the election, the board shall make and enter an order in the minutes directing the issuing of bonds sufficient to pay for the proposed improvements. The board may not issue bonds in an amount greater than that specified in the order and notice of election.

(b) Subchapter L, of Chapter 55 of this code, providing for the issuing, denominations, rate of interest, manner and conditions of payment, and maturity dates of water improvement district bonds, apply to bonds of a fresh water supply district. (R.S. Art. 7936.)

§ 53.177. Approving Bonds

(a) Before the board offers bonds for sale, it shall send to the attorney general a certified copy of all proceedings relating to organizing the district and issuing the bonds. They shall also provide other relevant information he requires.

(b) The attorney general shall carefully examine the bonds in connection with the record and the constitution and laws of this state governing the issuance of bonds. The attorney general shall certify the bonds if he finds that they conform to the record and the constitution and laws of this state and that they are valid and binding obligations of the district. (R.S. Art. 7937.)

§ 53.178. Registering Bonds

When the attorney general approves the bonds, the comptroller shall register them in a book kept for that purpose. The comptroller shall record the certificate of the attorney general as to the bonds' validity.

The bonds are then prima facie valid in any action, suit, or proceeding. In a suit to enforce collection of the bonds and interest on the bonds, the only defense against the validity of the bonds is forgery or fraud. (R.S. Art. 7938.)

§ 53.179. Selling Bonds

After the bonds are registered, the board shall sell them on the best terms and for the best price possible. The board shall promptly pay to the district depository the money received from the sale of the bonds. The district depository shall hold the money for the district. (R.S. Art. 7939.)

§ 53.180. Recording of Bond Issues

(a) After the bonds are issued, the board shall deliver a well-bound book to the county treasurer, who shall keep in the book a list of:

- (1) all bonds which have been issued;
- (2) their manner of payment;
- (3) the amount of each bond;
- (4) the rate of interest on each bond;
- (5) the date of issuing each bond;
- (6) the date when each bond is due;
- (7) the place where each bond is payable;
- (8) the amount received for each bond; and
- (9) the tax levy to pay interest on and redeem the bonds.

(b) The county treasurer shall keep the books open at all times for inspection by any taxpayer or bondholder. When a person pays for a bond, the treasurer shall enter the payment in the book. The treasurer is entitled to receive for his services the same fee allowed by law to the county clerk for recording deeds. (R.S. Art. 7941.)

§ 53.181. Paying Bonds and Interest

At the time for paying interest or for redeeming the bonds, the district depository shall receive and cancel any interest coupons paid or any bonds redeemed. When the board receives an interest coupon or a bond, it shall credit the account of the depository with the amount received. The board shall then cancel and destroy the bond or coupon. (R.S. Art. 7940.)

§ 53.182. Bonds Payable From Revenues and Ad Valorem Taxes

(a) For the purpose of constructing, purchasing, repairing, improving, and extending authorized improvements, a district may issue bonds payable solely from the revenues of:

- (1) the operation of the district's water system, less the reasonable cost of maintaining and operating the system; or
- (2) the operation of the district's sanitary sewer system, less the reasonable cost of maintaining and operating the system; or (New.)
- (3) both the water system and the sanitary sewer system. (New.)

(b) The district may also issue bonds for the purposes set out in this section, payable both from ad valorem taxes and the revenues of:

- (1) its water system; or
- (2) its sanitary sewer system; or (New.)
- (3) both its water system and sanitary sewer system. (New.)

(c) If the district issues combination tax and revenue bonds, it shall levy, assess, and collect ad valorem taxes until the net revenues from the operation of the water system or the sanitary sewer system, together with the revenue from taxes, have accumulated a surplus in the sinking fund at least equal to the principal of and interest on the bonds scheduled to accrue in the next year. When this accumulation is completed, the board

may reduce the tax levy to a rate that will produce at least 25 percent of the principal and interest requirements for each of the next succeeding years. When actual experience of three successive years demonstrates that the net revenues are adequate to pay the principal of and the interest on the bonds as they mature, the board may discontinue the tax until it becomes necessary to levy the tax again to avoid default in paying the bonds and interest. (52nd Legis., Ch. 233, Sec. 1, sen. 1, 2, 3.)

§ 53.183. Election Required

(a) A district may not issue bonds as authorized in Section 53.182 of this code unless an election is first held in the district and the proposition is approved by a majority of the electors of the district who vote in the election.

(b) If the election is held to authorize revenue bonds only, the board shall have the ballots printed to allow for voting for or against the proposition: "The issuance of bonds and the pledge of net revenues for the payment of the bonds."

(c) If the election is held to authorize combination tax and revenue bonds, the board shall have the ballots printed to allow for voting for or against the proposition: "The issuance of bonds to be paid for from an adequate pledge of net revenues and levy of ad valorem taxes."

(d) Except as provided in this section, the provisions of Sections 53.172-53.175 of this code, relating to tax bond elections, apply to elections held under this section. (52nd Legis., Ch. 233, Sec. 1, sen. 4, 5, 6.)

§ 53.184. Refunding Bonds

(a) With the consent of the holders, a district may refund outstanding bonds by issuing new coupon bonds in their place.

(b) Interest is shown by coupons attached to the bonds. The board may pay the interest on the bonds annually or semiannually.

(c) The board may pay the refunding bonds serially or in any other manner it chooses, but it shall pay the bonds not later than 40 years from the date the bonds are issued.

(d) The board shall issue the bonds in denominations of \$100 or a multiple of \$100. The board shall levy a tax sufficient to meet the payment of principal of and interest on the refunding bonds before the bonds are delivered. The refunding of bonds does not affect any taxes already due.

(e) The board shall issue refunding bonds in the manner provided for other district bonds. The board shall deduct any sum on hand to the credit of any sinking fund account in ascertaining the amount of refunding bonds to be issued, and it shall apply the money to the payment of the outstanding bonds.

(f) The board shall not issue refunding bonds until they are approved by the attorney general and registered by the comptroller. The comptroller shall not register the refunding bonds until the old bonds being replaced are presented to him for cancellation. After the comptroller registers the new bonds, he shall cancel the old bonds and interest coupons and deliver the new bonds to the proper bondholders. The district may present the old bonds for cancellation in installments, and the comptroller may register and deliver a like amount of the new bonds. (R.S. Art. 7941a, as amended.)

§ 53.185. Rates and Charges

If the board issues revenue bonds or combination tax and revenue bonds, the board, at the time it authorizes the bonds, shall fix rates and charges for the use of the facilities or the services rendered in an amount which, together with any tax which is levied, will assure the prompt payment of the principal of and interest on the bonds as they mature. (52nd Legis., Ch. 233, Sec. 1, sen. 7.)

§ 53.186. Interest and Sinking Fund

(a) A district shall have an interest and sinking fund. The board shall credit to this fund all taxes collected for the payment of interest or redemption of district bonds.

(b) The board shall use money in this fund only:

- (1) to pay interest on district bonds;
- (2) to cancel and surrender district bonds; and
- (3) to pay the expenses of assessing and collecting the taxes.

(R.S. Art. 7953.)

§ 53.187. Investment of Sinking Fund

The board may invest the district's sinking funds in county, municipal, district, or other bonds in which other sinking funds may by law be invested. The board may also invest the sinking funds in bonds of the series to which the funds apply, if the bonds are offered for redemption before maturity on terms the board deems advantageous to the district. (R.S. Art. 7954.)

§ 53.188. Levy of Taxes

After the district has issued bonds, the board shall levy taxes on all property in the district, whether real, personal, or mixed. The board shall levy the taxes based on the full value of each piece of property. The board shall levy the taxes in an amount which is enough to pay the interest on the bonds and to create a sinking fund sufficient to redeem and discharge the bonds when they mature. The board shall levy taxes annually for this purpose as long as the bonds are outstanding. (R.S. Art. 7952.)

§ 53.189. Assessor and Collector—Office

The assessor and collector shall maintain an office. (R.S. Art. 7942 (part).)

§ 53.190. Subject to Rules of Board

The assessor and collector is subject to the rules and regulations of the board in the same manner as provided by law for assessors and collectors of water improvement districts. (R.S. Art. 7942 (part).)

§ 53.191. Duties—In General

In addition to the other duties imposed by this chapter, the assessor and collector shall:

- (1) return to the board of equalization a list of all persons who refuse to sign the oath for tax assessment;
- (2) make up and return the assessment rolls and keep bound records of the rolls;
- (3) collect all taxes and deposit them weekly in the district depository;
- (4) file once a week with the district secretary a statement of all money collected;
- (5) keep an account of all money collected;
- (6) make a monthly report of collections; and
- (7) use a duplicate receipt book, give a receipt for each collection, and retain a copy in the book which he shall preserve as a district record. (R.S. Arts. 7942, 7943.)

§ 53.192. Assessor's Accounts

The board shall charge the assessor and collector with the total assessment as shown by the assessment rolls. For this purpose, the board shall use a permanent finance ledger. The board shall give the assessor and

collector credit for all money he pays to the depository as shown by his monthly reports. After the final annual settlement, the assessor and collector shall make a complete report of all taxes that have not been collected. The board shall audit the report and give proper credits to the assessor and collector. The board shall make the annual settlement on the first Monday in May of each year. (R.S. Art. 7944.)

§ 53.193. Rendering Property for Taxation

Each person, partnership, or corporation that owns taxable property in the district shall render the property for taxation to the tax assessor and collector when called on to do so. If he is not called on to do so, he shall render his property for taxation on or before June 1 of each year. (R.S. Art. 7947.)

§ 53.194. Assessment of Taxes

(a) Immediately after the district votes a bond issue, the tax assessor and collector shall assess all taxable property, whether real, personal, or mixed, in the district. He shall assess all property annually.

(b) The tax assessor and collector shall make the assessment on forms provided by the board and on each form he shall record:

(1) the property owner's sworn statement listing all property which he owns in the district and which is subject to state and county taxation; and

(2) the full value of the property.

(c) The assessor and collector shall make a list of all property which is not rendered for taxation in the district and which is subject to state and county taxation.

(d) The assessor and collector has authority to administer oaths to carry out fully the provisions of this section. (R.S. Art. 7945.)

§ 53.195. Date of Tax Assessment

The tax assessor and collector shall assess taxes for the district on January 1 of each year. He shall complete the assessment and have the lists and books ready to deliver on or before June 1. (R.S. Art. 7946.)

§ 53.196. Appraisal Dates

The board of equalization shall, after the first year, meet annually on the first Monday in June to receive all assessment lists or books of the assessor and collector. The board shall complete its examination and equalization of the lists by the second Monday in June. The board shall deliver the rolls to the assessor and collector by the second Monday in July. The assessor and collector shall complete the rolls, and the board shall approve the rolls and return them to the assessor and collector, by the first Monday in September. (R.S. Art. 7951.)

§ 53.197. Maintenance Tax Election

(a) If the board considers it necessary to levy a maintenance tax, it shall call an election in the district.

(b) The board shall have printed on the ballot the proposition for or against the tax and the amount of the proposed tax, which may be either a fixed rate or a maximum rate.

(c) Except as provided in this section, the provisions of Sections 53.172-53.175 of this code, relating to tax bond elections, apply to elections held under this section. (R.S. Art. 7955.)

§ 53.198. Levy of Maintenance Tax

(a) After the district has voted a maintenance tax, the board shall levy the tax and have it assessed and collected as are other taxes. The board

may not levy a tax in an amount which is more than the specific sum voted.

- (b) The board shall use the revenue from the maintenance tax only:
 - (1) to maintain, repair, and make additions to the district improvements; and
 - (2) to pay for other lawful expenses of the district.

(c) The board may levy maintenance taxes until the power is taken away by another district election. The board may hold an election on the question of repeal or reduction of maintenance taxes no more often than once every five years. The board may refrain from levying maintenance taxes if they are not necessary. (R.S. Art. 7956.)

§ 53.199. Tax Collection Dates

All taxes are due and payable on October 1 of each year. The district taxpayers shall pay the taxes before February 1 of the next year. (R.S. Art. 7958.)

§ 53.200. Delinquent Taxes

All the provisions of Subchapter M of Chapter 55 of this code relating to the lien, penalties, interest and costs, preparation and publication of the delinquent tax roll, suit for collection and foreclosure proceedings, attorney's fees, and officers' fees in proceedings for collecting delinquent taxes, and relating to redemption of lands before sale, apply to collecting delinquent taxes in a fresh water supply district. (R.S. Art. 7959.)

[Sections 53.201 to 53.230 reserved for expansion]

SUBCHAPTER G. ADDING AND EXCLUDING TERRITORY

Section 53.231. Excluding Land from District

The board, by resolution, may exclude territory from the district to the extent of at least 10 acres contiguous and adjoining the boundaries of the district. The board may exclude land by resolution only before the district has issued and sold any bonds and before the district has levied any taxes. (45th Legis., Ch. 385, Sec. 1 (part).)

§ 53.232. Procedure

The resolution is effective only after:

- (1) notice is published as prescribed by Section 53.233 of this code; or
- (2) the resolution is confirmed at an election ordered under Section 53.235 of this code. (45th Legis., Ch. 385, Sec. 1(a) (part).)

§ 53.233. Publication of Notice

(a) The board shall have the notice of intention to adopt the resolution published once a week for two consecutive weeks in a newspaper of general circulation in the county. It shall have the first notice published before the beginning of the 14-day period immediately preceding the day of the meeting at which the resolution is to be finally passed. (45th Legis., Ch. 385, Sec. 1(b) (part).)

(b) The board shall state in the notice the date set for the meeting and shall include in the notice a copy of the proposed resolution containing a description by metes and bounds of the land proposed to be excluded. (45th Legis., Ch. 385, Sec. 1(a) (part).)

§ 53.234. Petition for Election

At any time before the date set for the meeting, 10 or a majority of the qualified electors of the district who own land in the district may file a

petition with the president or secretary of the board, requesting an election on the proposition to exclude the territory. (45th Legis., Ch. 385, Sec. 1(b) (part).)

§ 53.235. Order of Election

When the petition is filed, the board shall order an election on the proposition. (45th Legis., Ch. 385, Sec. 1(b) (part).)

§ 53.236. Final Passage of Resolution

(a) If no petition is filed, no election on the proposition is required. The board may finally pass and adopt the resolution to exclude the territory from the district. The board shall have a copy of the resolution, signed by a majority of the supervisors and duly attested by the secretary of the board, recorded in the deed records of the county in which the district is located.

(b) The resolution takes effect when it is properly recorded. (45th Legis., Ch. 385, Sec. 1(b) (part).)

§ 53.237. Cancellation of Previously Issued Bonds

If a district has authorized the issuance of bonds, and the bonds have not been sold or put into circulation, and the district has levied no tax to pay the principal of and interest on the bonds, the district, by excluding any territory, cancels this authorized bonded indebtedness. (45th Legis., Ch. 385, Sec. 1(c).)

§ 53.238. Redefining District Boundaries

(a) The board, within a reasonable time after excluding territory from the district, shall adopt a resolution redefining the boundaries of the district to reflect the exclusion of the territory.

(b) When the board has passed the resolution, the secretary of the district shall enter and record the resolution in the minutes or records of the board. The board shall file a certified copy of the resolution in the office of the county clerk of the county in which the district is located. The board shall also have a certified copy recorded in the deed records of the county. (45th Legis., Ch. 385, Sec. 1(d).)

§ 53.239. Adding Territory to District

A district may annex territory not already included in a fresh water supply district by following the procedure described in this subchapter. (45th Legis., Ch. 385, Sec. 2, sen. 1 (part).)

§ 53.240. Annexation Petition

(a) A person may present a petition to the secretary of the board, requesting that the district annex the described area.

(b) The petition must be signed by a majority of the persons who own land in the described area; but if more than 50 persons own land in the area, the petition must be signed by at least 50 of them. (45th Legis., Ch. 385, Sec. 2, sen. 1 (part).)

§ 53.241. Time and Place of Hearing

The board by order shall set the time and place of the hearing on the petition. The board may not hold the hearing before the expiration of the 30th day after the day of the order. (45th Legis., Ch. 385, Sec. 2, sen. 2, 3.)

§ 53.242. Notice of Annexation Hearing

The secretary shall issue notice of the time and place of hearing. In the notice, he shall describe the territory proposed to be annexed. The

secretary shall post copies of the notice in three public places in the territory proposed to be annexed. He shall post the notices for at least the 15 days immediately preceding the day of the hearing. He shall also publish the notice once in a newspaper of general circulation in the county before the beginning of the 15-day period immediately preceding the day of the hearing. (45th Legis., Ch. 385, Sec. 2, sen. 4, 5, 6.)

§ 53.243. Resolution to Add Territory

(a) The board may by resolution add the territory to the district if, on hearing the petition, they find that:

(1) the proposed addition of territory to the district is feasible and practicable; and

(2) the addition would be of benefit both to the territory and to the district.

(b) The board need not include all of the land described in the petition if it finds that a modification or change is necessary or desirable.

(c) The board shall have a copy of the resolution, signed by a majority of the supervisors and attested by the secretary of the board, recorded in the deed records of the county.

(d) The resolution takes effect when it is properly recorded. (45th Legis., Ch. 385, Sec. 2, sen. 7, 8.)

§ 53.244. Apportionment of District Indebtedness

The added territory shall bear its pro rata part of the indebtedness or taxes that are owed, contracted, or authorized by the district to which the new territory has been added. Before the added territory is subject to any part of the district indebtedness or taxes, however, the board shall order an election in the district, as enlarged, on the question of the assumption of the indebtedness or taxes by the district as enlarged. (45th Legis., Ch. 385, Sec. 2, sen. 9.)

§ 53.245. Conduct of Elections

An election held either to confirm the exclusion of territory or to assume indebtedness or taxes is to be held as are elections for issuing bonds by the district. (45th Legis., Ch. 385, Sec. 3.)

§ 53.246. Excluding Land inside Cities or Towns

(a) The board of supervisors of a district located entirely in one county may exclude from the district land which is inside the boundaries of a city or town if:

(1) the district, when created, did not include inside its boundaries any land which was inside the corporate limits of the city or town;

(2) the district has inside its boundaries land which has been annexed by a city or town since the district was created;

(3) the city or town provides to the annexed land the same services as the district may provide to it;

(4) the population of the city or town is more than 4,000, according to the last preceding federal census;

(5) the city or town has not adopted a home-rule charter; and

(6) the area to be excluded has a part of its boundary identical with a part of the boundary of the district as it exists at the time of the exclusion.

(b) Under this section, the board shall not at any time reduce the size of the district to an area less than 90 percent of the area it encompassed at the time of its creation. (R.S. Art. 7930—3, Sec. 1.)

§ 53.247. Meeting to Determine Exclusion

The board, by three-fifths vote, may call a meeting of the board to determine whether or not the district shall exclude any land from the dis-

trict. The board shall call a meeting for this purpose if five percent of the qualified property taxpaying electors of the district petition them to do so. (R.S. Art. 7930—3, Sec. 2, sen. 1 (part).)

§ 53.248. Requirements of Petition

The petitioners, in their petition, shall describe the proposed new boundaries of the district. They shall state also that it is proposed that all the land inside the boundaries of the district not included inside the proposed new boundaries be excluded from the district. (R.S. Art. 7930—3, Sec. 2, sen. 1 (part).)

§ 53.249. Notice of the Meeting

- (a) The board, in the notice of the meeting, shall state:
- (1) the proposed new boundaries of the district;
 - (2) the proposal to exclude all land outside the proposed new boundaries;
 - (3) the time and place of the meeting; and
 - (4) the right of any landowner of the district to appear at the meeting and to be heard in support of or in opposition to establishing the new boundaries and excluding the land proposed to be excluded.
- (b) The board shall address the notice to "All landowners and taxpayers of _____ County Fresh Water Supply District No. _____ (inserting the name and number of the district) and all other persons concerned." (R.S. Art. 7930—3, Sec. 2, sen. 2.)

§ 53.250. Posting of Notice

The board shall post a certified copy of the notice in three public places inside the district. The board shall also have the notice published one time before the beginning of the 10-day period immediately preceding the day of the meeting, in a newspaper of general circulation in the district. If there is no newspaper of general circulation in the district, the board shall have the notice printed in a newspaper of general circulation in the county where the district is located. (R.S. Art. 7930—3, Sec. 2, sen. 3.)

§ 53.251. Power to Adjourn Meeting

The board may adjourn the meeting from time to time in their discretion. (R.S. Art. 7930—3, Sec. 2, sen. 4.)

§ 53.252. Excluding Land by Resolution or Election

(a) The board may, at its discretion, either call an election on the question of whether or not to exclude the land from the district, or, by resolution, declare the land excluded from the district, if:

- (1) no district landowner has filed, by the time of the meeting, a written protest against excluding the land from the district;
 - (2) no district landowner protests the exclusion at the meeting;
- or

(3) the protests, if any, represent less than three percent of the total superficial area of the district.

(b) If the board, by resolution, declares that the land is excluded, it shall state in the resolution the new boundaries of the district. The board shall file a copy of the resolution, signed by a majority of the supervisors and duly attested by the secretary, in the office of the county clerk. The county clerk shall record the resolution in the deed records of the county in which the district is located. After the resolution is recorded, the land excluded is no longer a part of the district. (R.S. Art. 7930—3, Sec. 3.)

§ 53.253. Protest

If a written protest is filed with the board before the meeting or if a protest is made at the meeting by a district landowner, the board shall pass on the protest after hearing the evidence. (R.S. Art. 7930—3, Sec. 4 (part).)

§ 53.254. Election Required by Protests

(a) If the owner or owners of as much as three percent of the district land protest the exclusion, the board shall call an election to decide whether or not the proposed land shall be excluded.

(b) Except as provided in this subchapter, the provisions of Sections 53.022–53.028 of this code apply, to the extent they are applicable, to elections held under this section. The board shall perform the duties imposed on the commissioners court by those sections. (R.S. Art. 7930—3, Sec. 4 (part).)

§ 53.255. Notice of Election to Exclude Land

(a) The board shall post a notice of the election stating

- (1) the time and place for holding the election;
- (2) the proposed new boundaries of the district;
- (3) the proposition to be voted on; and
- (4) the names of the presiding officers appointed by the board to hold the election.

(b) The board shall post a copy of the notice in four public places in the district and a copy at the courthouse door for the 20 days immediately preceding the date of the election. (R.S. Art. 7930—3, Sec. 5.)

§ 53.256. Ballots

The board shall provide the necessary ballots for the election and shall have the ballots printed to allow for voting for or against the proposition:

“The establishment of the new boundaries of the _____ County Fresh Water Supply District No. _____ (inserting the name of the district).” (R.S. Art. 7930—3, Sec. 6.)

§ 53.257. Order Excluding Land

If the election favors establishing the new boundaries, the board shall enter an order declaring the result of the election. The board shall enter the order in its minutes, declaring that the land which has been excluded is no longer a part of the district. In the order the board shall also describe the new boundaries. The board shall file a copy of the order, signed by a majority of the board and duly attested by the secretary, in the office of the county clerk. The county clerk shall record the copy in the deed records of the county in which the district is located and the land shall cease to be a part of the district. (R.S. Art. 7930—3, Sec. 8 (part).)

§ 53.258. If Proposition Defeated

If the proposition to exclude the land is defeated, the board may not act on a petition to exclude all or any part of the land voted on within one year of the election. (R.S. Art. 7930—3, Sec. 9.)

§ 53.259. Rights of Bondholders

No proceeding under this subchapter diminishes or impairs the rights of the holders of any outstanding and unpaid bonds, warrants, or other certificates of indebtedness of a district. (R.S. Art. 7930—3, Sec. 10, sen. 1 (part).)

§ 53.260. Apportionment of District Indebtedness

(a) Each property owner in the excluded territory shall pay as his proportional share of each series of district indebtedness a sum equal to the percentage of the "net indebtedness" which the assessed value of his excluded property bears to the total assessed value of all property in the district before the exclusion. For each series of indebtedness, all property values are to be taken from the tax rolls of the district for the year in which the series of indebtedness was issued and sold.

(b) In Subsection (a) of this section, the phrase "net indebtedness" means the greater of:

(1) the face value (par value plus accrued interest) of the outstanding bonds or warrants in the series at the time of the exclusion, less the sinking funds, reserves, and deposits held for paying the indebtedness; and

(2) the market value of the outstanding bonds or warrants in the series at the time of the exclusion, less the sinking funds, reserves, and deposits held for paying the indebtedness. (R.S. Art. 7930—3, Sec. 10, sen. 1 (part).)

§ 53.261. Resolution Establishing Apportionment

(a) When the board adopts the resolution or enters the order excluding land, it shall determine the proportional share of district indebtedness chargeable to the excluded land. The board shall adopt in its records a resolution establishing the proportional share. When the board determines and establishes the amount, it is binding on all persons and property in both the excluded and the remaining areas of the district. (R.S. Art. 7930—3, Sec. 10, sen. 2.)

(b) The board shall charge the property remaining inside the district with the remaining district indebtedness. The property owners of the newly defined district shall pay the remaining indebtedness by annual taxes. (R.S. Art. 7930—3, Sec. 10, sen. 3.)

§ 53.262. Current Taxes—Lien

(a) The owners of the property in the excluded land shall pay the taxes levied against their property by the district for the year in which the land was excluded. Until paid, these taxes are a lien against the property excluded from the district as though the land had not been excluded.

(b) The board shall credit the amount collected against the total amount which the owners of the excluded land owe. The board may not levy additional taxes or other charges against the excluded land for the year in which the exclusion is made. (R.S. Art. 7930—3, Sec. 10, sen. 4.)

§ 53.263. Annual Levy of Taxes against Excluded Territory

(a) The district shall levy and collect taxes against the property in the excluded territory on the same basis as the district levies and collects taxes annually against the property remaining inside the district, until the amount collected equals the total net amount chargeable against the excluded territory.

(b) The district may lower the rates on the taxes and charges assessed against the property in the excluded territory for the last year during which the assessments are made, in order to obtain only enough money to discharge the balance of the sum chargeable against the excluded territory.

(c) The district shall continue to levy taxes against the land in the excluded territory each year until enough taxes have been levied to cover the excluded territory's pro rata share of the district's indebtedness. (R.S. Art. 7930—3, Sec. 10, sen. 9.)

§ 53.264. Voluntary Payments

A municipality authorized to do so, and any person, firm, or corporation desiring to do so may voluntarily pay to the district at any time any amount toward the discharge of the amount chargeable against the property in the excluded territory. The district shall credit all voluntary payments as a reduction of the amount charged against the excluded territory. (R.S. Art. 7930—3, Sec. 10, sen. 8.)

§ 53.265. Status of Delinquent Taxes

All taxes against land in the excluded territory which are delinquent at the time of exclusion or which become delinquent after the exclusion have the same status they would have had if the district had not excluded the land. The district has and may exercise all of the liens, rights, and remedies it would have had against the persons and property against which the taxes were assessed if the district had not excluded the territory. (R.S. Art. 7930—3, Sec. 10, sen. 5.)

§ 53.266. Collection of Delinquent Taxes

The principal of all delinquent taxes which were levied against excluded territory after the exclusion, and which are collected before final payment of the indebtedness charged to the territory, shall be credited against that indebtedness as if the taxes had been collected when due. The district shall enforce and collect all taxes remaining delinquent after the collection of all charges provided for in this subchapter. (R.S. Art. 7930—3, Sec. 10, sen. 6, 7.)

§ 53.267. Penalties and Interest

Taxes and charges provided for in this subchapter are subject to the same penalties and interest as are other taxes which the district levies. The district has the rights and remedies concerning these taxes which it has concerning other taxes. (R.S. Art. 7930—3, Sec. 10, sen. 10.)

§ 53.268. Discharge of Excluded Land From Obligations

On payment of its pro rata share of the district indebtedness except for delinquent taxes against specific pieces of property, the excluded territory is released from all liability to the district except the liability on each piece of property for payment of the delinquent taxes. (R.S. Art. 7930—3, Sec. 11, sen. 1 (part).)

§ 53.269. Resolution of Discharge

(a) When the liability of the excluded territory is discharged, except for delinquent taxes, the board shall adopt a resolution stating this fact and listing the property on which the taxes are unpaid. In the list the supervisors shall give a brief description of the property, the name of the owner, and the amount of the principal sum owed for each year there is a delinquency.

(b) The supervisors shall have the resolution entered in their minutes and recorded in the deed records of the county. (R.S. Art. 7930—3, Sec. 11, sen. 1 (part).)

§ 53.270. Release on Payment of Delinquent Taxes

When a property owner pays the delinquent taxes against property listed in the resolution, it is discharged from all obligations to the district. The release is established by a certificate of the tax assessor and collector of the district certifying that the property owner has paid the delinquent taxes against the property. (R.S. Art. 7930—3, Sec. 11, sen. 2.)

§ 53.271. Rights after Exclusion

The property owners of the excluded territory have no right, title, or interest in the district property after the land is excluded. (R.S. Art. 7930—3, Sec. 14.)

§ 53.272. Debts Incurred after Exclusion

No property or property owner in the excluded territory is liable for the payment of any bonds, warrants, or other indebtedness issued or incurred by the district after the territory is excluded. (R.S. Art. 7930—3, Sec. 13.)

§ 53.273. Findings of Fact by the Supervisors

The board's findings of fact relating to the excluded territory are prima facie valid if they are entered in the minutes. The findings are not contestable except in a direct attack instituted in a court of competent jurisdiction within the time and in the manner provided by law for election contests. (R.S. Art. 7930—3, Sec. 12.)

CHAPTER 54. MUNICIPAL UTILITY DISTRICTS**SUBCHAPTER A. GENERAL PROVISIONS****Section**

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[Sections 54.002 to 54.010 reserved for expansion]

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CONVERSION OF DISTRICT**

- 54.011. Creation of District.
- 54.012. Purposes of a District.
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Acts 1971, 62nd Leg., p. 774, ch. 84, amends the Water Code by adding Chapter 54, Municipal Utility Districts. Section 4 of the Act, an emergency provision, was amended by Acts 1971, 62nd Leg., p. 1048, ch. 212, § 1, to make Chapter 54 of the Water Code effective April 27, 1971.

Historical Note

Acts 1971, 62nd Leg., p. 774, ch. 84, §§ 2 and 3, provide:

"Sec. 2. This Act shall be liberally construed to carry out the purpose of its adoption. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the district shall have the power by resolution to provide an alternative procedure conformable to such constitutions.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application there-

of to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion or provision."

Title of Act:

An Act relating to the creation, establishment, consolidation, dissolution, maintenance, operation, financing, powers, and duties of municipal utility districts; providing for the conversion of certain conservation and reclamation districts into municipal utility districts; adding Chapter 54 to the Water Code; and declaring an emergency. Acts 1971, 62nd Leg., p. 774, ch. 84.

SUBCHAPTER A. GENERAL PROVISIONS

Section 54.001. Definitions

In this chapter:

- (1) "District" means a municipal utility district operating under this chapter.
- (2) "Board" means the board of directors of a district.
- (3) "Director" means a member of the board of directors of a district.
- (4) "Commission" means the Texas Water Rights Commission.
- (5) "Public agency" means any city, the United States, the State of Texas, and any district or authority created under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution, including any river authority, or any other political subdivision or governmental agency of the United States or the State of Texas.
- (6) "City" means any incorporated city, town, or village of the State of Texas whether operating under general law or under its home-rule charter.
- (7) "Extraterritorial jurisdiction" means the extraterritorial jurisdiction of a city as defined in Article I, Chapter 160, Acts of the 58th Legislature, 1963, as amended (Article 970a, Vernon's Texas Civil Statutes).
- (8) "Sole expense" means the actual cost of the relocation, raising, re-routing, or changing grade or alteration of construction and providing comparable replacement without enhancing the facilities after deducting from it the net salvage value derived from the old facility.

[Sections 54.002 to 54.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION OF DISTRICT

Section 54.011. Creation of District

A municipal utility district may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution.

§ 54.012. Purposes of a District

A district shall be created for the following purposes:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydro-electric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state.

§ 54.013. Composition of District

(a) A district may include the area in all or part of any county or counties including all or part of any cities and other public agencies.

(b) The land composing a district need not be in one body, but may consist of separate bodies of land separated by land which is not included in the district.

§ 54.014. Petition

When it is proposed to create a district, a petition requesting creation shall be filed with the commission. The petition shall be signed by a ma-

majority in value of the holders of title of the land within the proposed district, as indicated by the county tax rolls. If there are more than 50 persons holding title to the land in the proposed district, as indicated by the county tax rolls, the petition is sufficient if it is signed by 50 holders of title to the land.

§ 54.015. Contents of Petition

The petition shall:

(1) describe the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area;

(2) state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition; and

(3) include a name of the district which shall be generally descriptive of the locale of the district followed by the words Municipal Utility District, or if a district is located within one county, it may be designated "_____ County Municipal Utility District No. _____." (Insert the name of the county and proper consecutive number.) The proposed district shall not have the same name as any other district in the same county.

§ 54.016. Consent of City

(a) No land within the corporate limits of a city or within the extraterritorial jurisdiction of a city, shall be included in a district unless the city grants its written consent, by resolution or ordinance, to the inclusion of the land within the district. The request to a city for its written consent to the creation of a district, shall be signed by a majority in value of the holders of title of the land within the proposed district as indicated by the county tax rolls or, if there are more than 50 persons holding title to the land in the proposed district as indicated by the county tax rolls, the request to the city will be sufficient if it is signed by 50 holders of title to the land in the district. A petition for the written consent of a city to the inclusion of land within a district shall describe the boundaries of the land to be included in the district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area, and state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition.

(b) If the governing body of a city fails or refuses to grant permission for the inclusion of land within its extraterritorial jurisdiction in a district within 60 days after receipt of a written request, a majority of the electors in the area proposed to be included in the district or the owner or owners of 50 percent or more of the land to be included may petition the governing body of the city and request the city to make available to the land the water or sanitary sewer service contemplated to be provided by the district.

(c) If the governing body of the city and a majority of the electors or the owner or owners of 50 percent or more of the land to be included in the district fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within six months after receipt of the petition, the failure shall constitute authorization for the inclusion of the land in the district under the provisions of this section. Authorization for the inclusion of such land within the district under the provisions of this section shall mean only authorization to initiate proceedings to include the land within the district as otherwise provided by this Act.

(d) The provisions of this section relating to the method of including land in a district without securing the written consent of a city applies only to land within the extraterritorial jurisdiction of a city and does not apply to land within the corporate limits of a city. Under no circumstances shall land within the corporate limits of a city be included in a

district without the written consent, by ordinance or resolution, of the city. The provisions of this section shall apply whether the land is proposed to be included in the district at the time of creation of a district or to be included by annexation to a district.

(e) A city may provide in its written consent to the inclusion of land in a district, that the district construct all facilities to serve the land in accordance with plans and specifications which have been approved by the city. The city may also provide in its written consent that the city shall have the right to inspect all facilities being constructed by a district. The city's consent to the inclusion of land in the district may also contain restrictions on the terms and provisions of the district's bonds and notes issued to provide service to the land and conditions on the sale of the district's bonds and notes if the restrictions and conditions do not generally render the bonds and notes of districts in the city's extraterritorial jurisdiction unmarketable. The city's consent to the inclusion of land in a district may restrict the purposes for which a district may issue bonds to the purposes of the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:

(1) provide a water supply for municipal uses, domestic uses and commercial purposes;

(2) collect, transport, process, dispose of and control all domestic, industrial or communal wastes whether in fluid, solid or composite state; and

(3) gather, conduct, divert and control local storm water or other local harmful excesses of water in the district and the payment of organization expenses, operation expenses during construction and interest during construction.

(f) In addition to all the rights and remedies provided by the laws of the state in the event a district violates the terms and provisions of a city's written consent, the city shall be entitled to injunctive relief or a writ of mandamus issued by a court of competent jurisdiction restraining, compelling or requiring the district and its officials to observe and comply with the terms and provisions prescribed in the city's written consent to the inclusion of land within the district.

§ 54.017. Deposit

(a) The petition shall be accompanied by a deposit of \$250 which shall be paid to the commission for the use of the state, and no part of the deposit shall be returned except as provided in Subsection (c) of this section.

(b) The deposit shall be deposited with the state treasurer to be held in trust outside the state treasury until the commission either grants or refuses the petition, at which time the commission shall direct the state treasurer to transfer the deposit to the general revenue fund.

(c) If at any time before the hearing the petitioners desire to withdraw the petition, the commission shall direct the refund of the deposit to petitioners, or their attorney of record, whose receipt for the deposit shall be sufficient.

§ 54.018. Establishing a Date of Hearing

On the filing of a petition, the commission or someone authorized by the commission, shall fix a date, time, and place at which the petition shall be heard and shall issue notice of the date, time, and place of hearing. The notice shall inform all persons of their right to appear and present evidence and testify for or against the allegations in the petition, the form of the petition, the necessity and feasibility of the district's project, and the benefits to accrue.

§ 54.019. Notice of Hearing

(a) Notice of the hearing shall be published in a newspaper with general circulation in the county or counties in which the district is located

once a week for two consecutive weeks. The first publication shall be at least 14 days before the day of the hearing.

(b) Notice of the hearing shall also be given by mailing a copy of the notice to each city which has extraterritorial jurisdiction in the county or counties in which the proposed district is located and which has formally requested notice of the creation of all districts in the county or counties in which the city's extraterritorial jurisdiction is located.

(c) The request by a city for notice of hearings on the creation of districts shall be filed annually with the commission during the month of January. The request shall state the names of not more than two persons who are to receive the notice on behalf of the city and the mailing address of the persons.

(d) A certificate of a representative of the commission that notice was mailed to all cities which have extraterritorial jurisdiction in the county or counties in which the proposed district is located and which have formally requested notice shall be conclusive evidence that notice was properly mailed to all these cities.

§ 54.020. Hearing

(a) At the hearing, the commission shall examine the petition to ascertain its sufficiency, and any person interested may appear before the commission in person or by attorney and offer testimony on the sufficiency of the petition and whether the project is feasible and practicable and is necessary and would be a benefit to all or any part of the land proposed to be included in the district.

(b) The commission shall have jurisdiction to determine all issues on the sufficiency of the petition and creation of the district.

(c) The hearing may be adjourned from day to day, and the commission shall have power to make all incidental orders necessary with respect to the matters before it.

§ 54.021. Granting or Refusing Petition

(a) After the hearing of the petition if it is found that the petition conforms to the requirements of Section 54.015 of this code and that the project is feasible and practicable and is necessary and would be a benefit to the land to be included in the district, the commission shall so find by its order and grant the petition.

(b) If the commission finds that not all of the land proposed to be included in the district will be benefited by the creation of the district, the commission shall so find and exclude all land which is not benefited from the proposed district and shall redefine the proposed district's boundaries accordingly.

(c) If the commission finds that the petition does not conform to the requirements of Section 54.015 of this code or that the project is not feasible, practicable, necessary, or a benefit to the land in the district, the commission shall so find by its order and deny the petition.

(d) A copy of the order of the commission granting or denying a petition shall be mailed to each city having extraterritorial jurisdiction in the county or counties in which the district is located who requested notice of hearings as provided in Section 54.019 of this code.

§ 54.022. Temporary Directors

If the commission grants the petition, it shall appoint five temporary directors to serve until permanent directors are elected.

§ 54.023. Appeal From the Order of the Commission

Any person who signed the petition, any city, or any person who appeared in person or by attorney or agent and offered testimony for or against the creation of the district, may appeal from the order of the commission granting or refusing the petition within 30 days after the entry of the order.

§ 54.024. Supervision by Commission

The rights, powers, privileges, authority, and functions conferred on a district by granting of a petition for creation shall be subject to the con-

tinuing right of supervision of the state to be exercised by and through the commission.

§ 54.025. Qualification of Temporary Directors

After a district has been organized, each temporary director shall execute his bond in accordance with the provisions of Section 54.116 of this code and shall take his oath of office, and the board shall meet and organize.

§ 54.026. Confirmation and Director Election

Before issuing any bonds or other obligations an election shall be held within the boundaries of the proposed district to determine if the proposed district shall be established and to elect five permanent directors.

§ 54.027. Notice of Confirmation and Director Election

Notice of the confirmation and director election shall state the day and place or places for holding the election, the proposition to be voted on, and the candidates for director to be voted on. The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which the proposed district is located. The first publication of the notice shall be at least 14 days before the day set for the election.

§ 54.028. Conduct of Election

(a) Absentee balloting in the confirmation and director election shall begin 10 days before the election and shall end as provided in the Texas Election Code.

(b) The ballots for the election shall be printed to provide for voting "For District" and "Against District" and the names of the five persons appointed by the commission who qualified as temporary directors. The ballots shall also have five blank places after the names of the temporary directors in which a voter may write the names of other persons for directors.

(c) In no event shall any voter vote for more than five persons for director.

§ 54.029. Results of Election

(a) Immediately after the confirmation and director election, the presiding judge shall make returns of the result to the temporary board of directors. The temporary board of directors shall canvass the returns and declare the results at the earliest practicable time.

(b) If a majority of the votes cast in the election favor the creation of the district, then the temporary board shall declare that the district is created and enter the result on its minutes. If a majority of the votes cast in the election are against the creation of the district, the temporary board shall declare that the district was defeated and enter the result in its minutes and file a copy of the order with the commission.

(c) The order canvassing the results of the confirmation election shall contain a description of the district's boundaries, and shall be filed with the commission and in the deed records of the county or counties in which this district is located.

(d) The temporary board shall also declare the five persons receiving the highest number of votes for directors to have been elected as permanent directors.

(e) Unless otherwise agreed, the two directors elected who received the fewest number of votes shall serve until the following January and the three who received the highest number of votes shall serve until the second succeeding January.

§ 54.030. Conversion of Certain Districts Into Districts Operating Under This Chapter

(a) Any water improvement district, water control and improvement district, fresh water supply district, levee improvement district, irrigation district, or any other conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, may be converted to a district operating under this chapter.

(b) The governing body of a district which desires to convert into a district operating under this chapter shall adopt and enter in the minutes of the governing body a resolution declaring that in its judgment, conversion into a municipal utility district operating under this chapter and under Article XVI, Section 59, of the Texas Constitution, would serve the best interest of the district and would be a benefit to the land and property included in the district. The resolution shall also request the commission to hold a hearing on the question of the conversion of the district.

(c) A copy of the resolution shall be filed with the commission along with a deposit for costs of \$250 which shall be used by the commission as provided in Section 54.017 of this code.

§ 54.031. Establishing Date for Hearing

When the resolution requesting conversion is filed, the commission, or someone authorized by the commission, shall fix a date, time, and place when the conversion hearing will be held.

§ 54.032. Conversion of District: Notice

(a) Notice of the conversion hearing shall be given by publishing notice in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks with the first publication to be made not less than 14 full days before the time set for the hearing.

(c) The notice shall:

(1) state the time and place of the hearing;

(2) set out the resolution adopted by the district in full; and

(3) notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution.

§ 54.033. Conversion of District; Findings

(a) After a hearing, if the commission finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, it shall enter an order making this finding and the district shall become a district operating under this chapter and no confirmation election shall be required.

(b) If the commission finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, it shall enter an order against conversion of the district into one operating under this chapter.

(c) The findings of the commission of a district entered under this section shall be subject to appeal or review within 30 days after entry of the order of the commission granting or denying the conversion.

(d) A copy of the commission order converting a district shall be filed in the deed records of the county or counties in which the district is located.

§ 54.034. Effect of Conversion

A district which is converted into a district operating under this chapter shall:

(1) be constituted a municipal utility district operating under and governed by this chapter;

(2) be a conservation and reclamation district under the provisions of Article XVI, Section 59, of the Texas Constitution; and

(3) have and may exercise all the powers, authority, functions, duties, and privileges provided in this chapter in the same manner and to the same extent as if the district had been created under this chapter.

§ 54.035. Reservation of Certain Powers for Converted Districts

(a) Any district after converting into a municipal utility district may continue to exercise all necessary specific powers under any specific con-

ditions provided by the chapter of this code under which the district was operating before conversion and may retain its original name.

(b) Any district converted into a municipal utility district shall continue to have the power to issue bonds voted before the conversion but yet unissued and levy and collect maintenance taxes, bond taxes, or other taxes which were voted before the conversion.

(c) At the time of making the order of conversion, the commission shall specify in the order the specific provisions of this code under which the district had been operating which are to be preserved and made applicable to the operations of the district after conversion into a district operating under this chapter and whether a new name will be assigned to the district or the old name retained.

(d) A reservation of a former power under Subsection (a) of this section may be made only if this chapter does not make specific provision concerning a matter necessary to the effectual operation of the converted district.

(e) In all cases in which this chapter does make specific provision, this chapter shall, after conversion, control the operations and procedure of the converted district.

§ 54.036. Directors to Continue Serving

The existing board of a district converted to a municipal utility district under the provisions of this chapter shall continue to serve as the board of the converted district until the second Saturday of the following January, at which time five directors shall be elected to serve for such period of time and in the same manner as provided in Section 54.029 of this code for directors first elected for a district.

[Sections 54.037 to 54.100 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 54.101. Board of Directors

A district shall be governed by a board of five directors.

§ 54.102. Qualifications for Directors

To be qualified to serve as a director, a person shall be at least 21 years old, a resident citizen of the State of Texas, and either own land subject to taxation in the district or be a qualified voter within the district.

§ 54.103. Election of Directors; Term of Office

(a) An election shall be held in a district on the second Saturday of each January.

(b) On the second Saturday in January following the confirmation election, an election shall be held in a district for the election of two directors who shall be elected to serve two years. On the second Saturday in the second January, following the confirmation election, an election shall be held in the district for the election of three directors who shall be elected to serve two years. Thereafter, on the second Saturday in January of each following year, there shall be an annual election of two directors in one year and three directors in the next year in continuing sequence.

(c) The permanent directors may assign position number to each director's office, in which case directors shall thereafter be elected by position and not at large.

§ 54.104. Application to Get on Ballot

Except for the first elected board of directors, any candidate for the office of director shall file with the secretary of the board of directors or any agent who may be designated by the board his application to have his name printed on the ballot. An application shall be signed by a candidate, or by 10 qualified voters, and shall be filed at least 30 days before the election.

§ 54.105. Vacancies on the Board

A vacancy in the office of director or any office on the board shall be filled by appointment of the board for the unexpired term. If at any

time the number of qualified directors shall be less than three because of the failure or refusal of one or more directors to qualify or serve, because of death or incapacitation, or for any other reason, then the commission shall, upon the petition of any landowner in the district, appoint the necessary number of directors to fill all vacancies on the board.

§ 54.106. Organization of Board; Election of Officers

After the directors elected at each election have qualified by executing a bond and taking the proper oath, they shall organize by electing a president, a vice president, a secretary, and any other officers as in the judgment of the board are considered necessary.

§ 54.107. Quorum; Officers' Duties

(a) Three directors shall constitute a quorum and a concurrence of three shall be sufficient in all matters pertaining to the business of the district.

(b) 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.

(c) The secretary shall act as president if both the president and vice president are absent or disabled. 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.

(d) The board may appoint another director, the general manager, or any employee as assistant or deputy secretary to assist the secretary and any such person shall be entitled to certify as to the authenticity of any record of the district, including all proceedings relating to bonds, contracts, or indebtedness of the district.

§ 54.108. Bylaws

The board is empowered to adopt bylaws to govern:

- (1) the time, place, and manner of conducting its meetings;
- (2) the powers, duties, and responsibilities of its officers and employees;
- (3) the disbursement of funds by checks, drafts, and warrants;
- (4) the appointment and authority of director committees;
- (5) the keeping of records and accounts; and
- (6) other matters as the board considers appropriate.

§ 54.109. Meetings and Notice

(a) The board may establish regular meetings to conduct district business and may hold special meetings at other times as the business of the district requires. The board shall hold its meetings at one of its designated meeting places.

(b) Notice of the time, place, and purpose of any meeting of the board shall be given by posting at a place convenient to the public within the district. A copy of the notice shall be furnished to the clerk or clerks of the county or counties in which the district is located, who shall post them on a bulletin board in the county courthouse used for such purpose. The notice of a meeting shall be posted for at least three days before a meeting, unless there is an emergency or urgent public necessity, in which case no posting of notice shall be required.

(c) Failure to post notice shall not affect the validity of any action taken at a regular meeting of the board of directors, but may affect the validity of action taken at a special meeting unless the board of directors declares in action taken at that special meeting that an emergency existed.

(d) Except as herein provided the provisions of Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252—17, Vernon's Texas Civil Statutes), shall be applicable to meetings of the board of directors. Any interested person may attend any meeting of the board.

§ 54.110. District Office and Meeting Place

(a) The board shall designate, and establish a district office and meeting place within the district, and the board may also establish a meeting place outside the district. Either or both district meeting places may be a private residence or office provided that the board of directors in its order establishing the meeting place declares the same to be a public place and invites the public to attend any meeting of the board.

(b) If the board of directors establishes a meeting place outside the district, it shall give notice of its location by filing a true copy of the resolution establishing the location of the district office with the commission and also by publishing notice of the location in a newspaper of general circulation in the county or counties in which the district is located. If the location of the meeting place outside the district is changed, notice of the change shall be given in the same manner.

§ 54.111. Management of District

(a) The board of directors shall have control over and management of all the affairs of the district and shall employ all persons, firms, partnerships, or corporations deemed necessary by the board for the conduct of the affairs of the district, including, but not limited to, engineers, attorneys, financial advisors, a general manager, a utility operator, bookkeepers, auditors, and secretaries.

(b) The board of directors shall determine the term of office and the compensation of all employees and consultants by contracts or by resolution of the board.

(c) All employees may be removed by the board.

(d) The board of directors may require a bond of any officer or employee payable to the district and conditioned on the faithful performance of his duties.

§ 54.112. Supplies

The board shall also have the right to purchase all materials, supplies, equipment, vehicles, and machinery needed by the district.

§ 54.113. Seal

The directors shall adopt a seal for the district.

§ 54.114. Fees of Office

(a) The directors are entitled to receive as fees of office not more than \$25 a day for each day of service necessary to discharge their duties. The fees shall not exceed the sum of \$100 in any one month regardless of the number of days of necessary service during that month.

(b) Upon approval by the board, a director may be reimbursed for travel or other expenses incurred on behalf of the district upon presentation of a verified statement.

§ 54.115. General Manager

A director may be employed as general manager of the district at the compensation fixed by the other four directors, and when so employed, he shall continue to perform the duties of a director.

§ 54.116. Bond and Oath of Office

(a) As soon as practicable after a director is elected or appointed he shall execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of his duties. In the event any temporary director is elected at the first director's election, he shall be confirmed as a director without the necessity of executing a new bond.

(b) All bonds of the directors, including the bonds of the temporary directors, shall be approved by the board.

(c) Each director shall take the oath of office prescribed by the Constitution for public officers.

(d) The bond and oath shall be filed with the district and retained in its records.

§ 54.117. Records

(a) All original minutes and orders of the board of directors, all construction contracts and all related instruments, all bonds of the district's

board of directors, and all bonds of the district's officers and employees shall be kept in a safe place and maintained as permanent records of the district.

(b) No minutes or orders of the board of directors shall be destroyed.

(c) Ad valorem tax records shall be maintained at the office of the tax assessor and collector and all records necessary for the district's annual audits and necessary to comply with the terms of its bond orders or resolutions shall be retained for at least one full year after the expiration of the preceding fiscal year. District contracts other than construction contracts, and the records relating to them shall be retained for at least four years after the performance thereof.

(d) Except for the foregoing, a district's records may be destroyed when the board determines that they are no longer needed or useful. As to any district records destroyed, the board shall designate the person or persons to destroy them and the manner of the destruction. If the board considers it advisable, it may have any instruments to be first inventoried or microfilmed before they are destroyed.

§ 54.118. Director Interested in Contract

(a) A director who is financially interested in any contract with the district or a director who is an employee of a person who or firm which is financially interested in any contract with the district shall disclose that fact to the other directors, and the disclosure shall be entered into the minutes of the meeting.

(b) An interested director may not vote on the acceptance of the contract or participate in the discussion on the contract.

(c) The failure of a director to disclose his financial interest and to have it entered on the minutes shall invalidate the contract.

§ 54.119. Suits

(a) All districts created under this chapter shall be governmental agencies and bodies politic and corporate and are declared to be defined districts within the meaning of Article XVI, Section 59, of the Texas Constitution, and may, through their directors, sue and be sued in any and all courts of this state in the name of the district. Service of process in any suit may be had by serving any two directors.

(b) All courts of this state shall take judicial notice of the establishment of any districts.

§ 54.120. Contracts

A district shall contract and be contracted with in the name of the district.

§ 54.121. Payment of Judgment

Any court in the state rendering judgment for debt against a district may order the board to levy, assess, and collect taxes or assessments to pay the judgment.

§ 54.122. Elections

Unless otherwise provided, notice of all elections ordered by the board shall be given by publication once a week for two consecutive weeks with the first publication in a newspaper with general circulation in the county or counties in which a district may be located for at least 14 days before the election. The clerk or clerks for absentee voting need not be a resident or qualified voter in the district.

§ 54.123. Tax Assessor-Collector; Deputies

(a) The board shall appoint a person to the office of tax assessor and collector and may appoint deputy tax assessors and collectors as considered necessary.

(b) Each shall qualify by executing bond for \$10,000 payable to the district and approved by the board, conditioned on the faithful performance of their duties and on paying over to the district depository all money coming into their hands as assessor and collector.

(c) Each shall be required to give additional security if, in the judgment of the board, it may become necessary.

(d) Compensation shall be fixed by the board.

(e) The board may require the assessor and collector or any deputy to perform duties other than assessing property and collecting taxes.

§ 54.124. Dual Elections

(a) If the board of a district is uncertain about the proper class of voters to vote in an election on one or more propositions authorizing the issuance of bonds or otherwise lending the credit of the district, or spending money, or assuming any debt, the board may elect to call two simultaneous elections and submit the proposition or propositions to both the qualified electors of the district and to the duly qualified property taxpaying electors of the district.

(b) If the board submits the proposition or propositions in two separate simultaneous elections, the board may require that the votes of the qualified property taxpaying electors be cast separately from all other qualified electors of the district.

(c) In the event the board calls two separate simultaneous elections, the results of the election shall be canvassed in a manner which will show the results of the votes by the qualified property taxpaying electors, the results of the votes by all other qualified electors of the district, and the results of the votes by all qualified electors in the district including the qualified property taxpaying electors.

§ 54.125. Employee Benefits

(a) The board may provide for and administer a retirement, disability, and death compensation fund for the officers and employees of the district, and may adopt a plan or plans to effectuate the purpose of this section, including the forms of insurance and annuities which are considered advisable by the board. The board, after notice to the employees and a hearing, may change any plan, rule, or regulation.

(b) All money provided from the compensation of the officers and employees participating in the fund and plan authorized by this section and by the district for the retirement, disability, and death compensation fund after the money has been received by the district shall be invested as the board from time to time considers advisable. The money may be invested in the following manner:

(1) in bonds of the United States, the State of Texas, any county, city, or other political subdivision of this state, or in bonds issued by any agency of the United States, the payment of the principal and interest on which is guaranteed by the United States; and

(2) in life insurance policies, endowment or annuity contracts, or interest-bearing certificates of legal reserve life insurance companies authorized to write the contracts in the State of Texas.

(c) A sufficient amount of the money shall be kept on hand to meet the immediate payment of amounts likely to become due each year out of the fund as determined by the board.

(d) The recipients or beneficiaries from the fund shall not be eligible for any other pension, retirement fund, or direct aid from the State of Texas, unless the fund created under this Chapter is released to the State of Texas as a condition precedent to receiving the other pension, aid, or joining of any other system.

(e) The board may include hospitalization and medical benefits to their officers and employees as part of the compensation currently paid to the officers and employees and may adopt any plan, rule, or regulation in connection with it and amend or change the plan, rule, or regulation as it may determine.

§ 54.126. Workmen's Compensation

The board may also become a subscriber under the Texas Workmen's Compensation Act with any old line legal reserve insurance company authorized to write the policies in the State of Texas.

[Sections 54.127 to 54.200 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**Section 54.201. Powers**

(a) A district shall have the functions, powers, authority, rights, and duties which will permit accomplishment of the purposes for which it was created.

(b) A district is authorized to purchase, construct, acquire, own, operate, maintain, repair, improve, or extend inside and outside its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary to accomplish the purposes of its creation, including all works, improvements, facilities, plants, equipment, and appliances incident, helpful, or necessary to:

(1) supply water for municipal uses, domestic uses, power, and commercial purposes and all other beneficial uses or controls;

(2) collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state;

(3) gather, conduct, divert, and control local storm water or other local harmful excesses of water in a district;

(4) irrigate the land in a district;

(5) alter land elevation in a district where it is needed;

(6) navigate coastal and inland waters of the district; and

(7) provide parks and recreational facilities for the inhabitants in the district.

§ 54.202. Acquisition of Existing Facilities

If a district acquires existing works, improvements, facilities, plants, equipment, and appliances which are completed or partially created or under construction, a district may assume the contracts and obligations of the previous owner and perform the obligations of the previous owner in the same manner and to the same extent that any other purchaser or assignee would be bound.

§ 54.203. Solid Waste

A district may purchase, construct, acquire, own, operate, maintain, repair, improve, and extend a solid waste collection and disposal system inside and outside the district and make proper charges for it.

§ 54.204. Fees and Charges

(a) A district may adopt and enforce all necessary charges, fees, or rentals, in addition to taxes, for providing any district facilities or service.

(b) A district may require a deposit for any service or facilities furnished and the district may or may not provide that the deposit will bear interest.

(c) A district may discontinue a facility or service to prevent an abuse or enforce payment of an unpaid charge, fee, or rental due the district including taxes which have been due for not less than six months.

§ 54.205. Adopting Rules and Regulations

A district may adopt and enforce reasonable rules and regulations to:

(1) secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its sanitary sewer system;

(2) preserve the sanitary condition of all water controlled by the district;

(3) prevent waste or the unauthorized use of water controlled by the district; and

(4) regulate privileges on any land or any easement owned or controlled by the district.

§ 54.206. Effect of Rules

After the required publication, rules adopted by the district under Section 54.205 of this code shall be recognized by the courts as if they were penal ordinances of a city.

§ 54.207. Publication of Rules

(a) The board shall publish once a week for two consecutive weeks a substantive statement of the rules and the penalty for their violation in one or more newspapers with general circulation in the area in which the district is located.

(b) The substantive statement shall be condensed as far as possible to intelligently explain the purpose to be accomplished or the act forbidden by the rules.

(c) The notice must advise that breach of the rules will subject the violator to a penalty and that the full text of the rules are on file in the principal office of the district where they may be read by any interested person.

(d) Any number of rules may be included in one notice.

§ 54.208. Effective Date of Rules

The penalty for violation of a rule is not effective and enforceable until five days after the publication of the notice. Five days after the publication, the published rule shall be in effect and ignorance of it is not a defense to a prosecution for the enforcement of the penalty.

§ 54.209. Penalties for Violation of Rule

(a) The board may set reasonable penalties for the breach of any rule of the district, which shall not exceed fines of more than \$200 or imprisonment for more than 30 days or both.

(b) These penalties shall be in addition to any other penalties provided by the laws of the state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located.

§ 54.210. Enforcement by Peace Officers

A district may employ its own peace officers with power to:

(1) make arrests when necessary to prevent or abate the commission of any offense against the rules of the district and against the laws of the state when the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district; and

(2) make an arrest in case of an offense involving injury or detriment to any property owned or controlled by the district.

§ 54.211. Acquisition of Land

(a) A district may acquire land, materials, waste grounds, easements, rights-of-way, and everything considered necessary for the purpose of accomplishing any one or more of the purposes provided in this chapter.

(b) A district shall have the right to acquire property by gift, grant, or purchase and the right to acquire property shall include property considered necessary for the construction, improvement, extension, enlargement, operation, or maintenance of the plants, works, improvements, facilities, equipment, or appliances of a district.

(c) A district may acquire either the fee simple title to or an easement on all land, both public and private, either inside or outside the boundaries and may acquire the title to or an easement on property other than land held in fee.

(d) A district may also lease property on such terms and conditions as the board may determine to be advantageous to the district.

§ 54.212. Eminent Domain

(a) A district may acquire any land, easements, or other property inside the district or within five miles of the district solely for sewer, water, storm drainage, and flood drainage connections when necessary by condemnation, and may elect to condemn either the fee simple title or an easement only.

(b) The right of eminent domain shall be exercised in the manner provided in Title 52, Revised Civil Statutes of Texas, 1925, as amended, except that a district shall not be required to give bond for appeal or bond

for costs in any condemnation suit or other suit to which it is a party and shall not be required to deposit double the amount of any award in any suit.

(c) The proceedings shall be instituted under the direction of the board and in the name of the district.

§ 54.213. Costs of Relocation of Property

In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, rerouting, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district.

§ 54.214. Sale of Surplus Land

Any property or land owned by the district which may be found to be surplus and not needed by the district may be sold under order of the board either by public or private sale or the property may be exchanged for other property.

§ 54.215. Leases

A district may lease to any person all or any part of any facilities constructed or acquired or to be constructed or acquired by it. The lease may contain the terms and provisions which the board determines to be advantageous to the district. The term of any lease shall not exceed 40 years from its date.

§ 54.216. Right to Enter Land

The directors, engineers, and employees of a district may go on any land inside or outside the district to make surveys and examine the land with reference to the location of works, improvements, plants, facilities, equipment, or appliances and to attend to any business of the district; provided that two weeks' notice be given to all landowners involved and that if any activities cause damage to the land or property, the land or property shall be restored as nearly as possible to the original state. The cost of restoration shall be borne by the district.

§ 54.217. Right to Use Road Right-of-Way

All districts are given right-of-way along and across all public, state, or county roads or highways, but they shall restore the roads crossed to their previous condition of use, as nearly as possible at the sole expense to the district.

§ 54.218. Contracts

(a) A district may contract with a person for the joint ownership and operation of any works, improvements, facilities, plants, equipment, and appliances necessary to accomplish any purpose or function permitted by a district, or a district may purchase an interest in any project used for any purpose or function permitted by a district.

(b) A district may enter into contracts with any person in the performance of any purpose or function permitted by a district.

(c) Without limiting the generality of the foregoing, a district may enter into contracts of not exceeding 40 years with persons on the terms and conditions the board may consider desirable, fair, and advantageous for:

- (1) the purchase and sale of water, or either;
- (2) the collection, transportation, treatment, and disposal of its domestic, industrial, and communal wastes or the collection, transportation, treatment, and disposal of domestic, industrial, and communal wastes of other persons;
- (3) the gathering, diverting, and control of local storm water, or other local harmful excesses of water;
- (4) the continuing and orderly development of the land and property within the district through the purchase, construction, or instal-

lation of works, improvements, facilities, plants, equipment, and appliances which the district may otherwise be empowered and authorized to do or perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, all of the land and property may be placed in a position to ultimately receive the services of the works, improvements, plants, facilities, equipment, and appliances;

(5) the maintenance and operation of any works, improvements, facilities, plants, equipment, and appliances of the district or of another person;

(6) the collection, treatment, and disposal of solid wastes collected inside or outside the district; and

(7) the exercise of any other rights, powers, and duties granted to a district.

§ 54.219. Source of Contractual Payments

(a) A contract may provide that the district will make payment under the contract from proceeds from the sale of notes or bonds, from taxes, or from any other income of the district or any combination of these.

(b) A district may make payments under a contract from taxes other than maintenance taxes, after the provisions of the contract have been approved by a majority of the electors voting at an election held for that purpose.

(c) Any contract election may be held at the same time and in conjunction with an election to authorize bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns shall be the same as the procedure for a bond election.

(d) If the contract is approved, it will constitute an obligation against the taxing power of the district to the extent provided in the contract.

§ 54.220. Contracts For Materials, Machinery, Construction, Etc., For More Than \$25,000

(a) The board shall advertise a contract for more than \$25,000 for the purchase of materials, machinery, and all things to constitute the works, improvements, facilities, plants, equipment, and appliances of the district or for construction.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids. The notice shall be published in one or more newspapers with general circulation in the state, and one or more newspapers published in each county in which part of the district is located. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. If no newspaper is published in the county or counties in which the district is located, publication in one or more newspapers with general circulation in the state is sufficient. The notice shall be published once a week for three consecutive weeks before the date that the bids are opened, and the first publication shall be at least 21 days before the opening of sealed bids.

(c) A contract may cover all the improvements to be provided by the district or the various elements of the improvements may be segregated for the purpose of receiving bids and awarding contracts. A contract may provide that the improvements will be constructed in stages over a period of years.

(d) A contract may provide for the payment of a total sum which is the completed cost of the improvement or may be based on bids to cover cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers or a contract may be let and awarded in any other form or composite of forms and to any responsible person or persons which, in the board's judgment, will be most advantageous to the district and result in the best and most econom-

ical completion of the district's proposed plant, improvements, facilities, works, equipment, and appliances.

§ 54.221. Additional Work; Change Orders

After a contract has been awarded and the district determines that additional work is needed or that the character or type of work or facilities should be changed, the board may authorize change orders to the contract upon such terms as the board may approve provided the change does not increase nor decrease the total cost of the contract by more than 25 percent unless the order increasing or decreasing the work is approved by the commission or its duly appointed representative.

§ 54.222. Construction Bids

(a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a certified or cashier's check on a responsible bank in the state or a bidder's bond for at least two percent of the total amount of the bid.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the district or fails or refuses to furnish the bond required by law, he shall forfeit the amount of the check or bond which accompanied his bid.

(d) The district may specify reasonable additional requirements.

§ 54.223. Reports Furnished to Prospective Bidders

The board shall furnish to any person who desires to bid on construction work, and who makes a request in writing, a copy of the engineer's report which shows the work to be done and all details of it. The board may charge for each copy of the engineer's report an amount sufficient to cover the cost of making the copy.

§ 54.224. Provisions of Contracts for Construction Work

(a) Any contract made by the board for construction work shall conform to the provisions of this subchapter, and the provisions of this subchapter will be considered to be a part of the contract and shall prevail when the provisions of this chapter and the contract are in conflict.

(b) The contract shall contain, or have attached to it, the specifications, plans, and details for work included in the contract, and all work shall be done in accordance with these plans and specifications under the supervision of the board and the district engineer.

§ 54.225. Executing and Recording Construction Contract

(a) Contracts for construction work shall be in writing and signed by an authorized representative of the district and the contractor.

(b) The contract shall be kept in the district's records and be available for public inspection.

§ 54.226. Contractor's Bond

Any person, firm, partnership, or corporation to whom a contract is let must give good and sufficient performance and payment bonds in accordance with Article 5160, Revised Civil Statutes of Texas, 1925, as amended.

§ 54.227. Inspection of and Reports on Construction Work

(a) The board shall have control of construction work being done for the district under contract to determine whether or not the contract is being fulfilled and shall have the construction work inspected by the district engineer or his assistants.

(b) During the progress of the construction work, the district engineer shall submit to the board detailed written reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report including as-built plans of the facilities showing whether or not the contractor has fully complied with the contract.

§ 54.228. Payment for Construction Work

(a) The board may pay for construction work in partial payments as the work progresses on each stage, but partial payments shall not exceed 90 percent of the amount due at the time of the partial payment as shown by the report of the district's engineer.

(b) The district may elect to pay for the work in stages at the completion of each stage or may provide that the contract shall be payable in its entirety at the completion of the contract.

(c) When construction work is completed according to the terms of the contract, the board shall draw a warrant on the district depository to pay any balance due on the contract.

§ 54.229. Contracts For Materials, Machinery, and Construction of More Than \$5,000 But Less Than \$25,000

If the estimated amount of the proposed contracts for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials or supplies is more than \$5,000 but less than \$25,000, or for a duration of more than two years, competitive bids on uniform written specifications shall be asked from at least three bidders. Contracts shall be written and shall be awarded to the lowest and best bidder.

§ 54.230. Contracts With Governmental Agencies

The provisions of this subchapter shall not prohibit a district from purchasing property from public agencies by negotiated contract or without the necessity of advertising for bids.

§ 54.231. Personal or Professional Services Contracts

The provisions of this subchapter shall not apply to contracts for personal or professional services or for a utility service operator.

§ 54.232. Grants and Gifts

A district may accept grants, gratuities, advances, and loans in any form from any source approved by the board, including the United States, the state or any of its agencies, any private or public corporation, and any other person and to make and enter into contracts, agreements, and covenants which the board considers appropriate in connection with acceptance of grants, gratuities, advances, and loans.

§ 54.233. Area-Wide Waste Treatment

The powers and duties conferred on the district are granted subject to the policy of the state to encourage the development and use of integrated area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state, it being an objective of the policy to avoid the economic burden to the people and the impact on the quality of the water in the state which result from the construction and operation of numerous small waste collection, treatment, and disposal facilities to serve an area when an integrated area-wide waste collection, treatment, and disposal system for the area can be reasonably provided.

[Sections 54.234 to 54.300 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS**Section 54.301. Expenditures**

A district's money may be disbursed only by check, draft, order, or other instrument which shall be signed by at least three directors. The general manager, treasurer, or other employee of the district when authorized by resolution of the board may sign checks, drafts, orders, or other instruments on any district operation account and these need not be signed by anyone else.

§ 54.302. Purposes for Borrowing Money

The district may borrow money for any corporate purpose or combination of corporate purposes.

§ 54.303. Revenue Notes

(a) The board, without the necessity of an election, may borrow money on negotiable notes of the district to mature over a term of not more than 20 years and to bear interest at a rate not more than 10 percent a year to be paid solely from the revenues derived from the ownership of all or any designated part of the district's works, plant, improvements, facilities, or equipment after deduction of the reasonable cost of maintaining and operating the facilities.

(b) The notes may be first or subordinate lien notes within the discretion of the board, but no obligation may ever be a charge on the property of the district or on taxes levied or collected by the district but shall be solely a charge on the revenues pledged for the payment of the obligation. No part of the obligation may ever be paid from taxes levied or collected by the district.

§ 54.304. Bond Anticipation Notes; Tax Anticipation Notes

(a) The board may declare an emergency in the matter of funds not being available to pay principal of and interest on any bonds of the district payable in whole or in part from taxes or to meet any other needs of the district and may issue negotiable tax anticipation notes or negotiable bond anticipation notes to borrow the money needed by the district. Bond anticipation notes and tax anticipation notes may bear interest at any rate or rates not to exceed 10 percent and shall mature within one year of their date.

(b) Tax anticipation notes may be issued for any purpose for which the district is authorized to levy taxes, and tax anticipation notes shall be secured with the proceeds of taxes to be levied by the district in the succeeding 12-month period. The board may covenant with the purchasers of the notes that the board will levy a sufficient tax in the following October to pay principal of and interest on the notes and pay the costs of collecting the taxes.

(c) Bond anticipation notes may be issued for any purpose for which bonds of the district may have previously been voted or may be issued for the purpose of refunding previously issued bond anticipation notes. A district may covenant with the purchasers of the bond anticipation notes that the district will use the proceeds of sale of any bonds in the process of issuance for the purpose of refunding the bond anticipation notes, in which case the board will be required to use the proceeds received from sale of the bonds in the process of issuance to pay principal, interest, or redemption price on the bond anticipation notes.

§ 54.305. Repayment of Organizational Expenses

The district's directors are authorized to pay all costs and expenses necessarily incurred in the creation and organization of a district, the cost of investigation and making plans, the cost of the engineer's report, legal fees, and other incidental expenses, and to reimburse any person for money advanced for these purposes. These payments may be made from money obtained from the issuance of notes or the sale of bonds first issued by the district or out of maintenance taxes or other revenues of the district.

§ 54.306. Premium on Directors or Employees Bonds

The board may pay the premium on surety bonds required of officials or employees of the district out of any available funds of the district including proceeds from the sale of bonds.

§ 54.307. Depository

(a) The board, by order or resolution, shall designate one or more banks inside or outside the district to serve as the depository for the funds of the district. All funds of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds.

(b) To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be se-

cured in the manner provided by law for the security of funds of counties of the State of Texas.

(c) The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

§ 54.308. Investments

(a) Funds of the district may be invested and reinvested by the board or its authorized representative in direct or indirect obligations of the United States, the state, or any county, city, school district, or other political subdivision of the state. Funds of the district may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the State of Texas.

(b) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for the investments on such terms as the board considers advisable.

§ 54.309. Accounts and Records; Audits

(a) A complete system of accounts shall be kept by the district and an audit of its affairs for each year shall be prepared by an independent certified public accountant or a firm of independent certified public accountants.

(b) The fiscal year of the district shall be from January 1 to December 31, until changed by the board.

(c) A signed copy of the audit report shall be delivered to each member of the board of directors not later than 120 days after the close of each fiscal year, and a copy of the audit shall be kept on file at the district office and shall constitute a public record open for inspection by any interested person during normal office hours.

(d) The board shall file a copy of each audit with the commission.

§ 54.310. Paid Bonds, Coupons, Etc.

All district bonds and interest coupons or notes when paid shall be delivered to the district or destroyed and evidence of the destruction furnished the board.

§ 54.311. Maintenance Tax

(a) A district may levy and collect a tax for maintenance purposes, including funds for planning, maintaining, repairing, and operating all necessary plants, works, facilities, improvements, appliances, and equipment of the district and for paying costs of proper services, engineering, and legal fees, and organization and administrative expenses.

(b) A maintenance tax may not be levied by a district until it is approved by a majority of the electors voting at an election held for that purpose.

§ 54.312. Maintenance Tax Election

The maintenance tax election may be held at the same time and in conjunction with the election to authorize bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns shall be the same as the procedure for a bond election.

[Sections 54.313 to 54.500 reserved for expansion]

SUBCHAPTER F. ISSUANCE OF BONDS

Section 54.501. Issuance of Bonds

The district may issue its bonds for the purpose of purchasing, constructing, acquiring, owning, operating, repairing, improving, or extending any district works, improvements, facilities, plants, equipment, and appliances needed to accomplish the purposes set forth in Section 54.012

of this code for which a district shall be created, including works, improvements, facilities, plants, equipment, and appliances needed to provide a waterworks system, sanitary sewer system, storm sewer system, solid waste disposal system, or to provide parks and recreation facilities.

§ 54.502. Form of Bonds

(a) A district may issue its bonds in various series or issues.

(b) Bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate permitted by the Constitution and laws of the state, all as shall be determined by the board.

(c) A district's bonds and interest coupons, if any, shall be investment securities under the terms of Chapter 8 of the Business & Commerce Code and may be issued registrable as to principal or as to both principal and interest and shall or may be made redeemable before maturity, at the option of the district or may contain a mandatory redemption provision all as may be provided by the board. A district's bonds may be issued in the form, denominations, and manner and under the terms, conditions, and details, and shall be signed and executed, as provided by the board in the resolution or order authorizing their issuance.

§ 54.503. Manner of Repayment of Bonds

The board may provide for the payment of principal of and interest and redemption price on the bonds in any one of the following manners:

(1) from the levy and collection of ad valorem taxes on all taxable property within the district;

(2) by pledging all or any part of the designated revenues to result from the ownership or operation of the district's works, improvements, facilities, plants, equipment, and appliances or under specific contracts for the period of time the board determines;

(3) a combination of the sources set forth in Subdivisions (1) and (2) of this section.

§ 54.504. Additional Security for Bonds

(a) The bonds, within the discretion of the board, may be additionally secured by a deed of trust or mortgage lien on part or all of the physical properties of the district, and franchises, easements, water rights, and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties, and all other powers and authority necessary for the further security of the bonds.

(b) The trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the board for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification, and may condition the right to spend district money or sell district property on approval of a registered professional engineer selected as provided in the trust indenture and may make provisions for investment of funds of the district.

(c) Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities, and rights purchased and shall have the right to maintain and operate them.

§ 54.505. Election on Tax Bonds

Bonds payable solely from revenues may be issued by resolution or order of the board, but no bonds, except refunding bonds, payable wholly or partially from ad valorem taxes shall be issued until authorized by a majority vote of the resident electors of the district voting in an election called and held for that purpose.

§ 54.506. Engineer's Report

Before an election is held to authorize the issuance of bonds, there shall be filed in the office of the district and open to inspection by the public an engineer's report covering the plant, improvements, facilities,

plants, equipment, and appliances to be purchased or constructed and their estimated cost, together with maps, plats, profiles, and data fully showing and explaining the report.

§ 54.507. Notice of Bond Election

(a) Notice of a bond election shall be given as provided for confirmation elections and the notice shall contain the proposition or propositions to be voted upon, with an estimate of the probable cost of construction and incidental expenses connected with construction and an estimate of the cost of the purchase of improvements, if any, or the purchase of the improvements and the construction of additions to the improvements.

(b) All or any part of any facilities or improvements which may be acquired by a district by the issuance of its bonds may be included in one single proposition to be voted on at the election or the bonds may be submitted in several propositions. A bond election may also be held on the same day as the confirmation election. The bond election may be called by a separate election order or as a part of the order calling the confirmation election.

(c) If a majority of the votes cast at the election are in favor of the issuance of the bonds, the bonds may be issued by the board if the confirmation election results favorably to the confirmation of the district.

§ 54.508. Form of Ballots

(a) At any election to authorize bonds payable wholly from ad valorem taxes, in addition to the requirements of the Texas Election Code, the ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of taxes in payment of the bonds."

(b) At any election to authorize bonds payable from both ad valorem taxes and revenues, the ballots shall be printed to provide for voting for or against: "The issuance of bonds and the pledge of net revenues and the levy of ad valorem taxes adequate to provide for the payment of the bonds."

§ 54.509. Absentee Voting

Absentee balloting in bond elections shall not commence until 10 days before the election.

§ 54.510. Provisions of Bonds

(a) In the orders or resolutions authorizing the issuance of bonds, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those works, improvements, plants, facilities, equipment, and appliances the revenue of which is pledged, including provisions for the operation or for the leasing of all or any part of the improvements and the use or pledge of money derived from the operation contracts and leases, as the board may consider appropriate.

(b) The orders or resolutions of the board authorizing the issuance of bonds may also prohibit the further issuance of bonds or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued, subject to the conditions which may be set forth in the orders or resolutions.

(c) The orders or resolutions of the board issuing bonds may contain other provisions and covenants as the board may determine, not prohibited by the Constitution or by this chapter.

(d) The board may adopt and cause to be executed any other proceedings or instruments necessary and convenient in the issuance of bonds.

§ 54.511. Use of Bond Proceeds

The district may use bond proceeds to pay interest, administrative and operating expenses expected to accrue during the period of construction which shall not be more than three years as may be provided in the bond orders or resolutions, and to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds.

§ 54.512. Sale or Exchange of Bonds

(a) The board shall sell the bonds on the best terms and for the best possible price but none of the bonds may be sold for less than 95 percent of face value.

(b) The district may exchange bonds for property acquired by purchase or in payment of the contract price of work done or services performed for the use and benefit of the district.

§ 54.513. Approval by Attorney General; Registration by Comptroller

(a) All bonds issued by a district shall be submitted to the Attorney General of the State of Texas for examination.

(b) If he finds that the bonds have been authorized in accordance with law, he shall approve them, and they shall be registered by the Comptroller of Public Accounts of the State of Texas.

(c) After the approval and registration of bonds by the comptroller they shall be incontestable in any court or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

(d) When any bonds payable from net revenue recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or a lease made between the district and another party or parties, a copy of the contract or lease and the proceedings authorizing the contract or lease may or may not be submitted to the attorney general along with the bond records, and if submitted, the approval by the attorney general of the bonds shall constitute an approval of the contract or lease, and the contract or lease shall be incontestable.

§ 54.514. Refunding Bonds

(a) A district may issue bonds to refund all or any part of its outstanding bonds, notes, or other obligations including matured but unpaid interest coupons.

(b) Refunding bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate or rates permitted by the Constitution and laws of the state.

(c) Refunding bonds may be payable from the same source as the bonds, notes, or other obligations being refunded or from other additional sources.

(d) The refunding bonds shall be approved by the attorney general as in the case of other bonds and shall be registered by the comptroller on the surrender and cancellation of the bonds being refunded.

(e) The orders or resolutions authorizing the issuance of the refunding bonds may provide that they shall be sold and the proceeds deposited in the place or places where the bonds being refunded are payable, in which case the refunding bonds may be issued before the cancellation of the bonds being refunded provided an amount sufficient to pay the interest on and principal of the bonds being refunded to their maturity dates, or to their option dates if the bonds have been duly called for payment prior to maturity according to their terms, has been deposited in the place or places where the bonds being refunded are payable. The comptroller shall register them without the surrender and cancellation of bonds being refunded.

(f) A refunding may be accomplished in one or in several installment deliveries. Refunding bonds and their interest coupons shall be investment securities under the provisions of Article 8 of the Business & Commerce Code.

(g) In lieu of the method set forth in Section 54.514(a)-(f) of this code, a district may refund bonds, notes, or other obligations as provided by the general laws of the state.

§ 54.515. Obligations, Legal Investment; Security for Funds

All bonds, notes, and other obligations issued by a district shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, and trustees, and for all interest and sinking funds and other public funds of the State of Texas, and all agencies, subdivisions, and instrumentalities of the state including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. A district's bonds, notes, and other obligations shall be eligible and lawful security for all deposits of public funds of the State of Texas, and all agencies, subdivisions, and instrumentalities of the state including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, notes, and other obligations when accompanied by any unmatured interest coupons attached to them.

§ 54.516. Authority of Commission Over Issuance of District Bonds

(a) The commission shall investigate and report on the organization and feasibility of all districts that issue bonds, other than refunding bonds, under this chapter.

(b) Any district that desires to issue bonds under this chapter other than refunding bonds shall submit to the commission a written application for investigation, together with copies of the engineer's report and data, profiles, maps, plans, and specifications prepared in connection with the engineer's report.

(c) The commission or its designated agents shall examine the application and accompanying documents and shall visit and carefully inspect the project. The commission or its designated agents may request and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(d) The commission or its designated agents shall file in its office written suggestions for changes and improvements and shall furnish a copy of the report to the board of the district.

(e) If the commission approves or refuses to approve the project or the issuance of bonds for the improvements, it shall make a full written report which it shall file in its office and a copy of the report shall be furnished to the district.

§ 54.517. Commission Supervision of Projects and Improvements

(a) During construction of projects and improvements approved by the commission, no substantial alterations may be made in the plans and specifications without the approval of the commission.

(b) The commission or its designated agent may inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission.

(c) If the commission finds that the project is not being constructed in accordance with the approved plans and specifications, it shall give written notice immediately by certified mail to each member of the board of the district and the district's manager.

(d) If within 10 days after the notice is mailed the board does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the commission shall give written notice of this fact to the attorney general.

(e) After the attorney general receives this notice, he may bring an action for injunctive relief or quo warranto proceedings against the direc-

tors. Venue for either suit is exclusively in a district court in Travis County.

§ 54.518. Mandamus by Bondholders

In addition to all other rights and remedies provided by the laws of the state, in the event the district defaults in the payment of principal, interest, or redemption price on its bonds when due, or in the event it fails to make payments into any fund or funds created in the order or resolution authorizing the issuance of the bonds, or defaults in the observation or performance of any other covenants, conditions, or obligations set forth in the resolution or order authorizing the issuance of its bonds, the owners of any of the bonds shall be entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the district and its officials to observe and perform the covenants, obligations, or conditions prescribed in the order or resolution authorizing the issuance of the district's bonds.

§ 54.519. Service to Areas Outside the District

(a) A district may purchase, construct, acquire, own, operate, repair, improve, or extend all works, improvements, facilities, plants, equipment, and appliances necessary to provide a water system and a sewer system for areas contiguous to or in the vicinity of the district provided the district does not duplicate a service of another public agency. A district shall not provide a water or a sanitary sewer system to serve areas outside the district which is also within a city without securing a resolution or ordinance of the city granting consent for the district to serve the area within the city.

(b) To secure money for this purpose, a district is authorized to issue and sell negotiable bonds and notes which are payable from the levy and collection of ad valorem taxes on all taxable property within the district or from all or any designated part of the revenues received from the operation of the district's works, improvements, facilities, plants, equipment, and appliances or from a combination of taxes and revenues.

(c) Any bonds and notes may be issued upon the terms and conditions set forth in this chapter.

(d) A district is authorized to establish, maintain, revise, charge, and collect the rates, fees, rentals, tolls, or other charges for the use, services, and facilities of the water and sewer system which provide service to areas outside the district which are considered necessary and which may be higher than those charged for comparable service to residents within the district.

(e) The rates, fees, rentals, tolls, or other charges shall be at least sufficient to meet the expense of operating and maintaining the water and sewer system serving areas outside the district and to pay the principal of and interest and redemption price on bonds issued to purchase, construct, acquire, own, operate, repair, improve, or extend the system.

§ 54.520. Cancellation of Unsold Bonds

(a) The board, by order or resolution, may provide for the cancellation of all or any part of any bonds which have been submitted to and approved by the attorney general and registered by the comptroller, but not yet sold, and provide for the issuance of new bonds in lieu of the old bonds in the manner as provided by law for the issuance of the original bonds including their approval by the attorney general and their registration by the comptroller.

(b) The order or resolution of the board shall describe the bonds to be cancelled, and shall also describe the new bonds to be issued in lieu of the old bonds.

(c) A certified copy of the order or resolution of the board providing for the cancellation of the old bonds, together with the old bonds, shall be delivered to the comptroller, who shall cancel and destroy the old bonds and make a record of the cancellation.

[Sections 54.521 to 54.600 reserved for expansion]

SUBCHAPTER G. TAXES

Section 54.601. Tax Levy for Bonds

At the time bonds payable in whole or in part from taxes are issued, the board shall levy a continuing direct annual ad valorem tax for each year while all or part of the bonds are outstanding on all taxable property within the district in sufficient amount to pay the interest on the bonds as it becomes due and to create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date and to pay the expenses of assessing and collecting the taxes.

§ 54.602. Establishment of Tax Rate in Each Year

(a) On or before October 1 in each year or as soon after that time as practicable, the board shall consider the taxable property in the district and determine the actual rate per \$100 valuation of taxable property which is to be levied in that year and levy the tax against all taxable property in the district.

(b) In determining the actual rate to be levied in each year, the board shall consider among other things:

- (1) the amount which should be levied for maintenance and operation purposes, if a maintenance tax has been authorized;
- (2) the amount which should be levied for the payment of principal, interest, and redemption price of each series of bonds or notes payable in whole or in part from taxes;
- (3) the amount which should be levied for the purpose of paying all other contractual obligations of the district payable in whole or in part from taxes; and
- (4) the percentage of anticipated tax collections and the cost of collecting the taxes.

(c) In determining the amount of taxes which should be levied each year, the board may consider whether proceeds from the sale of bonds have been placed in escrow to pay interest during construction and whether the board reasonably expects to have revenue or receipts available from other sources which are legally available to pay principal of or interest or redemption price on the bonds. The board shall levy a tax in the first full year after issuance of its first series of bonds.

§ 54.603. Mandamus by Bondholders

In the event the board fails or refuses to levy a sufficient tax in each year which, together with other revenues or receipts which may be legally used for these purposes, will be sufficient to pay the required principal of or interest or redemption price on the bonds, notes, or other contractual obligations when due, or to pay the district's other contractual obligations payable from taxes in addition to all other remedies which may be available, the owner of the district's bonds, notes, or other contractual obligations shall be entitled to a writ of mandamus issued by a court of competent jurisdiction to compel the board to levy a sufficient tax to meet the district's obligations to the owners of its bonds, notes, or other contractual obligations.

§ 54.604. Assessment of District Property

The assessor and collector shall assess all taxable property in the district.

§ 54.605. Law Governing Property Subject to Taxation

The property subject to taxation in the district shall be determined by and governed by the law relating to taxation for state and county purposes except as specifically provided by this chapter.

§ 54.606. Rendition of Property

(a) The assessor and collector shall compile a record of all taxpayers and those subject to taxation in the district, all taxable property, and the name and post office address of the owners.

(b) Each owner of taxable property in the district shall file in the office of the assessor and collector a full, accurate, and complete statement under oath of all property owned by him in the district which is subject to taxation.

(c) The statement shall include the market value of all property listed and owned by the party rendering it.

(d) The statement shall be filed on or before April 30 of each year.

§ 54.607. Failure or Refusal to File Rendition

A person who fails or refuses to file, under oath, a true, full, and complete statement and rendition of all property owned by him which is subject to district taxation shall be precluded from making an objection, protest, or contest against the assessment made against him by the district.

§ 54.608. Property Owner's Oath

(a) The statement and rendition shall have attached to it substantially the following oath: "I _____, on my oath, state that the foregoing statement and rendition is a true, full and complete statement of all property owned by me, or for whom this rendition is made or by whom this rendition is made, subject to taxation in the district. I have correctly stated the description, location, and value thereof and of each item thereof."

(b) The statement and oath shall be signed and made before an officer authorized by law to take oaths and acknowledgments.

(c) The officer taking the oath shall place on the oath his certificate substantially as follows: "Subscribed and sworn to by _____ before me this the _____ day of _____, _____." (The officer also shall attach his official seal and signature.)

§ 54.609. Agent May File Rendition Statement

The statement and rendition may be filed by any authorized agent of the owner of any property, but the agent shall state in the statement and rendition that he is filing as an agent.

§ 54.610. Verification of Rendition; Rendition of Property Not Already Rendered

(a) The assessor and collector shall check, investigate, and verify each rendition of property and shall note on the rendition in writing his report. He shall include in the report any property omitted from the rendition with his estimate of the value of all the property not rendered at its full value or if the property is rendered at more than its full value.

(b) The assessor and collector shall make and file a rendition of all property in the district which is not rendered for taxation and shall file the rendition before June 1 of each year or as soon after that time as possible.

(c) In making the rendition of unrendered property, the assessor and collector shall include all property which is not rendered by the owner or his agent, and if the owner is unknown, the property shall be listed as being owned by "owner unknown."

(d) Property whose owner is unknown shall be taxed and taxes collected even though the owner is unknown.

§ 54.611. Rendition of Property at a Later Date

On creation of the district, if it becomes necessary to have property rendered for taxation at a later date than provided for regular assessment, the board shall fix the time for the rendition to be made and the other necessary functions connected with it. After the first year, the assessments shall be made as provided in this chapter.

§ 54.612. Authority to Administer Oaths

The assessor and collector and any deputy assessor collector may administer oaths to fully carry out his duties and the assessment of property for taxation.

§ 54.613. Laws and Penal Statutes Applicable to Rendition of Property

The laws and penal statutes of this state providing for rendition of property for state and county purposes and providing penalties for making false oaths and for failing to render property shall apply to rendition of property by a district except as provided in this chapter.

§ 54.614. Appointment of Board of Equalization

(a) At their first meeting or as soon after that time as practicable and each following year, the board shall appoint a chairman and two other commissioners to the board of equalization, one of whom may be a member of the board.

(b) Each person appointed to the board of equalization shall own taxable property in the district or be a resident in the district.

§ 54.615. First Meeting of Board of Equalization

(a) The chairman appointed by the board shall fix a time and place for the first meeting.

(b) The board of equalization shall convene at the time and place designated by the chairman to receive all assessment lists or books of the assessor and collector for examination, correction, equalization, appraisal, and approval.

§ 54.616. Oath of Board of Equalization

(a) Before the board of equalization begins to perform its duties, each commissioner shall take and subscribe 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 in the district as shown by the assessment lists or books of the assessor and collector for the district and add all property not included of which I have knowledge."

(b) The oath shall be recorded in the minutes of the board of equalization and shall be kept by the secretary of the board of equalization.

§ 54.617. Compensation of Board of Equalization

Members of the board of equalization shall receive the compensation fixed by the board.

§ 54.618. Secretary of Board of Equalization

At its first meeting the board of equalization shall appoint a secretary who shall keep a permanent record of all the proceedings of the board of equalization.

§ 54.619. Annual Meeting Date of Board of Equalization

The board of equalization shall convene on the date designated by the chairman and shall complete its work by September 1 or as soon after that time as possible.

§ 54.620. Powers and Duties of Board of Equalization

(a) At the time the board of equalization convenes, the assessor and collector shall bring to the meeting all assessment lists and books for examination so that the board of equalization may see whether or not each person has rendered his property at its full value.

(b) The board of equalization may subpoena persons and papers, administer oaths to persons who testify, and ascertain the value of all property subject to taxation.

(c) The board of equalization may raise or lower the valuation of any of the property, may correct any and all errors of assessments and renditions, and may add any unrendered property to the tax rolls.

(d) The board of equalization shall equalize as nearly as possible the value of all property rendered for taxation and fix the value of it for taxation.

§ 54.621. Complaints Filed With Board of Equalization

Any person may file with the board of equalization a complaint relating to the rendition and assessment of his own property or to any other property and the board of equalization shall consider all complaints.

§ 54.622. Lists of Persons and Property Not on Tax Rolls Submitted to Board of Equalization

(a) Anyone may file with the board of equalization lists of property omitted from the tax rolls, and the board of equalization shall add to the tax rolls any property which has been omitted from them.

(b) The assessor and collector shall file with the board of equalization a list of all persons who fail or refuse to render their property.

§ 54.623. Hearing

After the board of equalization has passed on the renditions, it shall set a date to hear protests from persons whose renditions have been raised.

§ 54.624. Notice of Hearing

At least 10 days before the hearing, the secretary of the board of equalization shall mail written notice of the time and place of the hearing to all persons whose assessments have been raised. Failure to give the notice does not relieve the owner of the property of his duty to take notice of the hearing and to attend.

§ 54.625. Hearing Procedure

At the hearing, the board of equalization shall hear and consider all complaints and protests, reconsider the valuation of all property whose valuation is raised by them, and finally fix the valuation on all property.

§ 54.626. Final Approval of Tax Rolls

(a) After the assessor and collector makes his final tax rolls, the board of equalization shall meet and consider the tax rolls and make necessary corrections and endorse their approval on the rolls.

(b) The action of the board of equalization in approving the tax rolls is final and is not subject to revision by the board of directors or any other tribunal except for fraud or clerical error.

§ 54.627. Preservation of Official Documents

(a) The assessor and collector shall prepare the tax rolls which shall be retained in his office.

(b) The minutes of the board of equalization, renditions, protests, and other papers filed in connection with the rendition of property and preparation of the tax rolls shall be preserved as official records in the district office.

§ 54.628. Date Taxes Are Due

All taxes are due and payable on October 1 of each year and shall be paid on or before January 31 of the following year.

§ 54.629. Delinquent Taxes

(a) All taxes which are not paid by January 31 become delinquent on February 1 of each year and shall be and remain a lien on the property for which they were assessed although the owner is unknown, the property is listed under the name of a person who is not the owner, or the ownership has changed.

(b) The property may be sold under a judgment of a court for all taxes, interest, penalty, and costs assessed against the property at any time after taxes become delinquent.

(c) The district may file suit to collect the delinquent taxes, and if the owner of the property is unknown, the suit may be filed against the unknown owner and the property sold under judgment of the court.

(d) Taxes are not barred by any statute of limitation, and no law providing for a period of limitation as to debts or actions shall apply to these taxes.

§ 54.630. Interest and Penalty on Delinquent Taxes

All delinquent taxes shall have a penalty of 10 percent of their amount added to them, which shall accrue at the time the taxes become delinquent. The delinquent taxes also shall bear interest at the rate of 10 percent a year from the date on which they become delinquent.

§ 54.631. Preparing and Filing Delinquent Tax Roll

The assessor and collector shall prepare and file with the board a delinquent tax roll on or before October 1 of each year. The delinquent tax roll shall show all charges on the tax rolls which have not been paid. The delinquent tax list shall include:

- (1) the name of the owner;
- (2) a description of the property; and
- (3) the total amount of taxes due.

§ 54.632. Notice of Delinquent Tax List

The board may publish the delinquent tax list in a newspaper published in the county in which the district or part of the district is located.

§ 54.633. Attorney to File Suits to Collect Delinquent Taxes

The board may employ an attorney to file suits to collect all delinquent taxes at the compensation provided by the board.

§ 54.634. Delinquent Tax Suit

- (a) A delinquent tax suit shall be filed as any other civil suit.
- (b) If the owner of the property against which delinquent taxes are owed is unknown, the suit may be filed against the unknown owner and citation published in the manner provided for state and county taxes.
- (c) All tax suits shall be for the collection of the amount due and foreclosure of the lien on the property against which the delinquent taxes are assessed.
- (d) Costs of the suit shall be taxed in the order of sale.

§ 54.635. Sale of Property to Pay Delinquent Taxes

- (a) Property on which delinquent taxes are owed shall be sold under order of sale.
- (b) If more property is covered by the lien fixed by the judgment than is necessary to secure the amount due, the property may be divided and sold in parcels as necessary to collect the amount due.
- (c) The officer executing the order of sale shall make deeds to the purchaser which shall be held to vest a good and perfect title in the purchaser, subject to contest only for fraud.

§ 54.636. Redemption of Property on Which Delinquent Taxes Are Owed

A person may redeem property on which delinquent taxes are owed in accordance with the laws governing redemption of property sold for delinquent taxes by a county.

§ 54.637. Using Tax Assessor Collector of Other Political Subdivision

- (a) Instead of proceeding for the assessment, equalization, and collection of taxes in the manner previously provided, the board may adopt an order to have the district taxes assessed and collected by the assessor and collector of taxes of a city or any other political subdivision of the state.
- (b) On the adoption of the order the taxes shall be assessed and collected by these officials and turned over to the district depository.
- (c) The compensation of these officials shall be as agreed upon by the officials and the board.

[Sections 54.638 to 54.700 reserved for expansion]

**SUBCHAPTER H. ADDING AND EXCLUDING TERRITORY;
CONSOLIDATING AND DISSOLVING DISTRICTS**

Section 54.701. Excluding Land From District

- (a) Before the board calls an election for the authorization of bonds payable in whole or in part from taxes, the board may on its own motion call a hearing on the question of the exclusion of land from the district under the provisions of Sections 54.702-54.707 of this code, if the exclusions are practicable, just, or desirable.
- (b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of any landowner or

property owner in the district filed with the secretary of the board before the time the first election on the question of the issuance of bonds payable in whole or in part from taxes is called.

§ 54.702. Hearing to Announce Proposed Exclusions and to Receive Petitions

If the board determines that an exclusion hearing should be held or if a written petition requesting an exclusion hearing is filed with the secretary of the board as provided in Section 54.701 of this code, the board shall give notice of a time and place of a hearing to announce its own conclusions relating to land or other property to be excluded and to receive petitions for exclusion of land or other property.

§ 54.703. Notice of Hearing

(a) The board shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 14 days before the day of the hearing.

(b) The notice shall advise all interested property owners of their right to present petitions for exclusions of land or other property and to offer evidence in support of the petitions and their right to contest any proposed exclusion based on either a petition or the board's own conclusions and to offer evidence in support of the contest.

§ 54.704. Petition

(a) A petition for exclusion of land must accurately describe by metes and bounds or lot and block number the land to be excluded. A petition for exclusion of other property must describe the property to be excluded.

(b) A petition for exclusion shall be filed with the district at least seven days before the hearing and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds shall be considered.

§ 54.705. Grounds for Exclusion

Exclusions from the district may be made on the grounds that:

(1) to retain certain land or other property within the district's taxing power would be arbitrary and unnecessary to conserve the public welfare, would impair or destroy the value of the property desired to be excluded, and would constitute the arbitrary imposition of a confiscatory burden;

(2) to retain any given land or other property in the district and to extend to it, either presently or in the future, the benefits, service, or protection of the district's facilities would create an undue and uneconomical burden on the remainder of the district; or

(3) the land desired to be excluded cannot be bettered as to conditions of living and health, or provided with water or sewer service or protected from flood, or drained, or freed from interruption of traffic caused by excess of water on the roads, highways, or other means of transportation serving the land, or otherwise benefited by the district's proposed improvements.

§ 54.706. Hearing Procedure

The board may adjourn the hearing from one day to another and until all persons desiring to be heard are heard. The board immediately shall specifically describe all property which it proposes to exclude on its own motion and shall hear first any protests and evidence against exclusions proposed on the board's own motion.

§ 54.707. Order Excluding Land

After considering all engineering data and other evidence presented to it, the board shall determine whether the facts disclose the affirmative of the propositions stated in Subsection (1) or (2) or, if appropriate, in Subsection (3) of Section 54.705 of this code. If the affirmative exists, the board shall enter an order excluding all land or other property falling within the conditions defined by the respective subsections and shall redefine in the order the boundaries of the district to embrace all land

not excluded. A copy of the order excluding land and redefining the boundaries of the district shall be filed in the deed records of the county or counties in which the district is situated.

§ 54.708. Suit to Review Exclusion

Any person owning an interest in land affected by the order may file a petition within 20 days after the effective date of the order to review, set aside, modify, or suspend the order.

§ 54.709. Venue of Suit

The venue in any action shall be in any district court which has jurisdiction in the county in which the district is located. If the district includes land in more than one county, the venue shall be in the district court having jurisdiction in the county in which the major portion of the acreage of the land sought to be excluded from the district is located.

§ 54.710. Appeal

A person may appeal from the judgment or order of a district court in a suit brought under the provisions of Sections 54.708–54.709 of this code to the court of civil appeals and supreme court as in other civil cases in which the district court has original jurisdiction. The appeal is subject to the statutes and rules of practice and procedure in civil cases.

§ 54.711. Adding Land by Petition of Landowner

The owner or owners of land contiguous to the district or otherwise may file with the board a petition requesting that there be included in the district the land described in the petition by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.

§ 54.712. Assumption of Bonds

If the district has bonds, notes, or other obligations outstanding or bonds payable in whole or in part from taxes which have been voted but are unissued, the board may require the petitioner or petitioners to assume their share of the outstanding bonds, notes, or other obligations and the voted but unissued tax bonds of the district and authorize the board to levy a tax on their property in each year while any of the bonds, notes, or other obligations payable in whole or in part from taxation are outstanding to pay their share of the indebtedness.

§ 54.713. Petition Signed and Executed

The petition of the landowner to add land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate.

§ 54.714. Hearing and Determination of Petition

(a) The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the district and if the water, sewer, and drainage system and other improvements of the district are sufficient or will be sufficient to supply the added land without injuring land already in the district.

(b) If the district has bonds payable in whole or in part from taxation which are voted but unissued at the time of an annexation, and the petitioners assume the bonds and authorize the district to levy a tax on their property to pay the bonds, then the board may issue the voted but unissued bonds even though the boundaries of the district have been altered since the authorization of the bonds.

§ 54.715. Recording Petition

A petition which is granted adding land to the district shall be filed for record and shall be recorded in the office of the county clerk of the county or counties in which the land is located.

§ 54.716. Adding Land by Petition of Less Than All the Landowners

In addition to the method of adding land to a district which is described in Sections 54.711–54.715 of this code, defined areas of land,

whether or not they are contiguous to the district, may be annexed to the district in the manner set forth in Sections 54.717-54.724 of this code.

§ 54.717. Filing of Petition

A petition requesting the annexation of a defined area signed by a majority in value of the owners of land in the defined area, as shown by the tax rolls of the county or counties in which such area is located, or signed by 50 landowners if the number of landowners is more than 50, shall be filed with the secretary of the board.

§ 54.718. Hearing on Petition

It shall be the duty of the board to pass an order fixing a time and place at which the petition for annexation shall be heard which shall not be less than 30 days from the day of the order calling the hearing.

§ 54.719. Notice of Hearing

The secretary shall issue a notice setting forth the time and place of the hearing and describing the area proposed to be annexed. Notice of the hearing shall be given by posting copies of the notice in three public places in the district, and in one public place in the area proposed to be annexed for at least 14 days before the day of the hearing and by publishing a copy of the notice in a newspaper of general circulation in the county or counties in which the area proposed to be annexed is located one time at least 14 days before the day of the hearing.

§ 54.720. Order Adding Defined Area

If upon the hearing of the petition it is found by the board that the proposed annexation of the area to the district is feasible and practicable and would be of benefit both to the area and to the district, then the board, by order entered in its minutes, may receive the proposed area as an addition to and to become a part of the district. The order adding the proposed territory to the district need not include all of the land described in the petition, if on the hearing a modification or change is found necessary or desirable by the board.

§ 54.721. Filing of Order Adding Land

(a) A copy of the order annexing land to the district, signed by a majority of the members of the board and attested by the secretary of the board, shall be filed and recorded in the deed records of the county or counties in which the district is located if the land is finally annexed to the district.

(b) After the order is recorded the area shall be a component part of the district.

§ 54.722. Election to Assume Obligation and Unissued Bonds and to Authorize Additional Bonds

(a) The annexed area shall bear its pro rata share of all bonds, notes, or other obligations or taxes which may be owed, contracted, or authorized by the district to which it has been added.

(b) Before the added area shall be subject to all or any part of the bonds, notes, obligations, or taxes, created before the annexation of the area to the district, the board shall order an election to be held in the district, as enlarged by reason of the annexation of the area, on the question of the assumption of the bonds, notes, obligations, and taxes by the annexed area.

(c) At the same election, the board may also submit a proposition on the question of whether the annexed area should assume its part of the bonds of the district payable in whole or in part from taxes which have been voted previously but not yet issued or sold and the levy of an ad valorem tax on all taxable property within the area annexed along with a tax on the rest of the district for the payment of the bonds.

(d) If the election results favorably, the district shall be authorized to issue its voted but unissued tax bonds even though the boundaries of the

district have been changed since the original election approving of the bonds.

(e) At the election called for the purpose of determining whether the annexed area shall assume the bonds, notes, or other obligations or taxes of the district, the board in a separate proposition, may also submit the question of whether the board should be authorized to issue bonds payable in whole or in part from taxes to provide service to the area annexed.

§ 54.723. Unfavorable Assumption Election or Bond Election

(a) In the event that the district has bonds, notes, or obligations or taxes which may be owed, contracted, or authorized at the time an area is annexed or if the district has voted but unissued bonds payable in whole or in part from taxes at the time of an annexation, the board may provide in its order annexing an area to the district that the annexation will not be complete or final unless the indebtedness, tax or bond, note, or other obligation assumption elections result favorably to the assumption of the district's outstanding bonds, notes, or other obligations and voted but unissued bonds.

(b) If the board elects to submit the question of whether the board should be authorized to issue bonds to provide service to the area annexed, the board may also provide in its order annexing an area to the district that the annexation will not be complete unless the election results favorably to the issuance of bonds to serve the annexed area.

§ 54.724. Notice of Assumption Election

Whenever an election is ordered to be held in the district for the purpose of the assumption of bonds, notes, or other obligations or taxes or the assumption of voted but unissued bonds by reason of the annexation of any area, then the election shall be held and notice given as provided for bond elections held by the district.

§ 54.725. Suit to Review Annexation

The provisions of Sections 54.708–54.710 of this code with respect to an appeal from an order excluding land from the district shall apply to review of an order annexing land to the district.

§ 54.726. Right to Serve New Land Included in District

The district has the same right and duty to furnish service to the annexed land that it previously had to furnish service to other land in the district and the board shall endeavor to serve all land in the district without discrimination.

§ 54.727. Duty to Advise Commission

The board shall furnish the commission a detailed description of any land excluded from or annexed to the district within 30 days after the exclusion or annexation or as soon after that time as practicable.

§ 54.728. Consolidation of Districts

Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 54.729–54.733 of this code.

§ 54.729. Elections to Approve Consolidation

(a) After the board of each district has agreed on the terms and conditions of consolidation, which may include the assumption by each district of the other district's bonds, notes, or other obligations and voted but unissued bonds payable in whole or in part from taxation, the levy of taxes to pay for the bonds, and adoption of a name for the consolidated district, the board shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order the election to be held on the same day in each district and shall give notice of the election for the time and in the manner provided by law for bond elections.

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation.

§ 54.730. Governing Consolidated Districts

(a) After two or more districts are consolidated, they become one district and are governed as one district, except for the payment of debts created before consolidation if the conditions of consolidation do not provide for the assumption by each district of the other's bonds, notes, or other obligations and voted but unissued bonds.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district until the next general election or name persons to serve as officers of the consolidated district until the next general election if all officers of the original districts agree to resign. At the next general election, directors will be elected for the consolidated district in the same manner and for the same term as directors elected at a confirmation election.

(d) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(e) The current board shall approve the bond of each new officer.

§ 54.731. Debts of Original Districts

(a) After two or more districts are consolidated, the debts of the original districts shall be protected and may not be impaired. These debts may be paid by taxes levied on the land in the original districts as if they had not consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement.

(b) If each district assumed the other's bonds, notes, and other obligations, taxes may be levied uniformly on all taxable property within the consolidated district in payment of the debts.

§ 54.732. Assessment and Collection of Taxes

After consolidation, the district shall assess and collect taxes on property in the original districts to pay debts created by the original districts unless each district has assumed the other district's bonds, notes, or other indebtedness payable in whole or in part from taxation.

§ 54.733. Voted But Unissued Bonds

In the event either district has voted but unissued bonds payable in whole or in part from taxation and the consolidated district assumed the voted but unissued bonds and the consolidated district was authorized to levy taxes to pay for the bonds, then the consolidated district shall be authorized to issue the voted but unissued bonds in the name of the consolidated district and levy a uniform tax on all taxable property in the consolidated district to pay for the bonds.

§ 54.734. Dissolution of District Prior to Issuance of Bonds

(a) If the board considers it advisable before the issuance of any bonds, notes, or other indebtedness, the board may dissolve the district and liquidate the affairs of the district as provided in Sections 54.734-54.738 of this code.

(b) If a majority of the board finds at any time before the authorization of bonds, notes, or other obligations or the final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully and beneficially accomplished, the board may issue notice of a hearing on a proposal to dissolve the district.

§ 54.735. Notice of Hearing

The board shall post notice of the hearing on the bulletin board at the courthouse door of each county in which the district is located and at three or more other public places within the boundaries of the district and shall publish notice of the hearing two times in a newspaper with general circulation in the district. The notice must be posted and pub-

lished at least 14 days before the hearing on the proposed dissolution of the district.

§ 54.736. **Hearing**

The board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice.

§ 54.737. **Board's Order to Dissolve District**

If the board unanimously determines from the evidence that the best interests of the persons and property in the district will be served by dissolving the district, the board shall enter the appropriate findings and order in its records dissolving the district. Otherwise the board shall enter its order providing that the district has not been dissolved.

§ 54.738. **Judicial Review of Board's Order**

The board's decree to dissolve the district may be judicially reviewed in the manner set forth in Sections 54.708-54.710 of this code for the review of an order excluding land from the district.

CHAPTER 55. WATER IMPROVEMENT DISTRICTS

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Section

55.001. Definitions.

[Sections 55.002 to 55.020 reserved for expansion]

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SUBCHAPTER A. GENERAL PROVISIONS

Section 55.001. Definitions

In this chapter:

- (1) "District" means a water improvement district created under this chapter.
- (2) "Board" means the board of directors of a water improvement district. (New.)
- (3) "Commission" means the Texas Water Rights Commission. (New.)

[Sections 55.002 to 55.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION TO ARTICLE XVI, SECTION 59, DISTRICT

Section 55.021. Creation of District

A water improvement district may be created in the manner prescribed by this subchapter, either under and subject to the limitations of Article III, Section 52, of the Texas Constitution, or under Article XVI, Section 59, of the Texas Constitution. (R.S. Art. 7625, sen. 5; Art. 8194.)

§ 55.022. District Wholly Within One County

The commissioners court of a county, at any regular or called session, may create one or more water improvement districts in the county as provided by this subchapter. (R.S. Art. 7622, sen. 1, as amended.)

§ 55.023. District May Include Cities, Towns, Etc.

A district may include all or part of one or more cities, towns, villages, and municipal corporations, but no land may be included in more than one district at any one time. (R.S. Art. 7622, sen. 2, as amended.)

§ 55.024. Petition

(a) A petition requesting creation of a district may be presented to the commissioners court. The petition must be signed by a majority of the persons who hold title to land in the proposed district, representing a total value of more than 50 percent of the value of all the land in the proposed district as indicated by the county tax rolls. However, if there are more than 50 persons holding title to land in the proposed district, the petition is sufficient if signed by 50 of them. The petition must set out the boundaries of the district and designate a name for the district. (R. S. Art. 7623, sen. 1, 2 (part).)

(b) The petition may be signed and presented to the commissioners court in several copies. In this case the county clerk shall make a certified copy of the petition, including a list of the names of all signers, and shall file the certified copy and the original copies. The certified copy of the petition shall be considered the petition in all proceedings under this chapter. (R.S. Art. 7625, sen. 2, 3, 4.)

§ 55.025. Date Set for Hearing

The commissioners court shall set a date for a hearing on the petition, to be held at a regular or special session not less than 15 days nor more than 40 days after the day the petition is presented. (R.S. Art. 7623, sen. 2 (part).)

§ 55.026. Notice of Hearing

(a) The county clerk shall issue a notice of the hearing directed to the sheriff giving the date and place of the hearing, and a copy of the order of the court setting the hearing. The sheriff shall serve the notice in the manner provided by law. (R.S. Art. 7623, sen. 3, 4.)

(b) The sheriff shall post copies of the notice in three public places in the proposed district, and shall post one copy at the courthouse door or on the bulletin board used for public notices. These notices shall be posted for 10 full days before the date of the hearing. The notice shall also be published once in a newspaper of general circulation in the county, if a newspaper is published in the county, at least five days before the date of the hearing. The sheriff shall make return of a true copy of the notice, showing the times and places of posting and publication. The county clerk shall record the return in the minutes of the court. (R.S. Art. 7624.)

(c) Any person interested may inspect the boundaries of the district as set out in the petition, and any person may inspect the petition in the office of the county clerk. (R.S. Art. 7623, sen. 5.)

§ 55.027. Hearing

(a) At the hearing, any person whose land is included in and would be affected by the district may support or oppose creation of the district and may offer testimony to show that the district is or is not necessary, would or would not be of public utility, or would or would not be feasible or practicable.

(b) Except as otherwise provided by this chapter, the commissioners court has exclusive jurisdiction to hear and determine all contests and objections to creation of the district and all other matters pertaining to creation of the district.

(c) The commissioners court may adjourn the hearing from day to day.

(d) The judgment rendered by the commissioners court is final, except as otherwise provided by this chapter. (R.S. Art. 7626.)

§ 55.028. Findings; Order

The commissioners court shall make and enter its findings in the record. If it finds that creation of the district and the construction or purchase of the proposed irrigation system, or cooperation with the United States as provided by Section 55.161 of this code, is feasible, practicable, and necessary, and would be a public benefit and a benefit to the land included in the district, then the court shall make and enter an order granting the petition and directing that an election be held in the proposed district. Otherwise, the court shall dismiss the petition at the cost of the petitioners. (R.S. Art. 7627; Art. 7629 (part).)

§ 55.029. Appeal

(a) Any petitioner or any landowner in the district aggrieved by the order of the commissioners court may appeal the order to the district court. Notice of appeal must be filed with the commissioners court at the time of the hearing, and an appeal bond must be filed with the county clerk within 10 days after the day notice of appeal is given. At the time notice of appeal is given, the commissioners court shall fix the amount of the appeal bond at not less than \$2,000 nor more than \$5,000; and the bond shall be made payable to the county judge for the benefit of adverse parties.

(b) Except as otherwise provided by this section, the appeal shall be tried de novo under the rules prescribed for practice in the district court and shall be de novo.

(c) The county clerk shall transfer to the district clerk the judgment and all records filed in the commissioners court within 10 days after the day the appeal bond is filed, and no other pleadings need be filed.

(d) The final judgment on appeal shall be certified to the commissioners court for its action within 10 days after the day the judgment becomes final. (R.S. Art. 7628.)

§ 55.030. Notice of Election

(a) After the election is ordered, notices of the election shall be posted at four places in the proposed district, and one shall be posted at the courthouse door, for the 20 days preceding the date of the election.

(b) The notice of the election shall state the time and places the election will be held, the boundaries of the proposed district, the presiding officers appointed to hold the election, the propositions to be voted on, and the offices to be filled at the election. (R.S. Art. 7630.)

§ 55.031. Voting Precincts

(a) The commissioners court, at the time it orders the election, shall order creation of one or more election precincts in the district and shall designate polling places in each precinct. (R.S. Art. 7631, sen. 3 (part), as amended.)

(b) The election precincts created under this section shall remain the election precincts of the district until changed by an order of its board. (R.S. Art. 7632.)

§ 55.032. Election Officials

The commissioners court shall appoint two judges and two clerks for each polling place, and designate one of the judges to be presiding judge. If an officer fails to serve, his place shall be filled in the manner provided by the general election law. (R.S. Art. 7631, sen. 3 (part), 4, as amended.)

§ 55.033. Ballots

The ballot for the election shall have printed on it only the following:

- (1) the heading, "Official Ballot";
- (2) the proposition, "(FOR) (AGAINST) Creation of the water improvement district";
- (3) the proposition, "(FOR) (AGAINST) Issuance of notes by the water improvement district"; and
- (4) five blank lines for writing in the names of persons for the office of director, under the heading, "FOR DIRECTORS, FIVE TO BE ELECTED." (R.S. Art. 7631, sen. 5, 6, 7, as amended.)

§ 55.034. Conduct of Election

Except as otherwise provided by this subchapter, the election shall be conducted as provided by the general election law. (R.S. Art. 7631, sen. 1, as amended.)

§ 55.035. Returns; Canvass

The officers of the election shall return the result of the election for each polling place, and the commissioners court shall canvass the returns. (R.S. Art. 7634, sen. 1, as amended.)

§ 55.036. Order; Creation of District

The commissioners court shall enter an order declaring the results of the election. If a majority of the votes favor creation of the district, the court shall enter an appropriate order declaring the district to be created and describing its boundaries by metes and bounds. (R.S. Art. 7634, sen. 2, as amended; Art. 7635, sen. 1, 2.)

§ 55.037. Directors

The commissioners court shall declare the five persons receiving the most votes to be elected directors. If not all five positions can be determined because of a tie vote, the commissioners court shall fill the necessary positions by selecting among the tying candidates. (R.S. Art. 7634, sen. 6, as amended.)

§ 55.038. Issuance of Notes

(a) If the proposition to issue notes carries, the board of directors shall issue notes of the district, in an amount not to exceed four percent of the cost of the proposed improvements, for the purpose of creating a fund to pay the cost of organizing the district and the cost of all surveys, investigations, engineering, issuance of bonds, making and filing of maps and reports, legal expenses, and all other costs and expenses authorized or made necessary by the provisions of this chapter. The board shall sell the notes or exchange them in payment of the costs and expenses.

(b) The notes shall be secured by the levy, assessment, and collection of taxes as provided for payment of bonds. The notes shall be paid out of the proceeds of the district's bonds when they are issued and sold. If the bond election fails to carry, then the notes shall be paid out of the tax revenue. (R.S. Art. 7634, sen. 3, 4, 5, as amended.)

§ 55.039. Recordation of Order

After the commissioners court makes and enters in its minutes the order creating the district or an order changing the name of a district, the court shall file a certified copy of the order with the county clerk, who shall have it recorded and indexed in the deed records of the county. Recordation of the order has the same effect, as to notice, as the recordation of a deed. The district shall pay the cost of making and recording copies of the order. (R.S. Art. 7638.)

§ 55.040. Multi-county District: Petition

Creation of a district composed of land in two or more counties may be initiated by presenting a petition to the Texas Water Rights Commission signed by the owners of more than half the land in the proposed district or by 50 qualified property taxpaying electors of the territory of the proposed district. The petition shall describe the boundaries of the proposed district, request a hearing to determine the advisability of creating the district, and request an order for an election. (39th Legis., Ch. 205, Sec. 2, sen. 1.)

§ 55.041. Multi-county District: Notice of Hearing

On the filing of the petition, the commission shall set a date for a hearing which must be held not less than 15 days nor more than 30 days after the date the petition is filed. The commission shall give notice, stating the time and place of the hearing, to the commissioners court of each county where land in the proposed district is located. The county clerk of each county shall post a notice of the time and place of the hearing at the courthouse door. (39th Legis., Ch. 205, Sec. 2, sen. 2.)

§ 55.042. Multi-county District: Hearing

At the hearing, any person whose land would be affected by creation of the district may appear and support or oppose creation of the proposed district, and may offer competent testimony to show that the district would or would not serve a beneficial purpose, be practicable, or accomplish the purposes intended. (39th Legis., Ch. 205, Sec. 2, sen. 3.)

§ 55.043. Multi-county District: Findings

(a) If the commission finds that the plan of water conservation, irrigation, and use presented in the petition is practicable and would be a public utility, the commission shall enter the findings in its records and shall send a certified copy of the findings to the commissioners court in each county in which part of the proposed district is located. The commission shall also inform each commissioners court of a date set by the commission on which an election shall be held in the area of the proposed district to determine whether the district will be created and to elect five directors for the district.

(b) If the commission finds that creation of the district is not practicable, that it would not serve a beneficial purpose, and that it would not be possible to accomplish through its creation the purposes proposed, the commission shall enter its findings in its records and shall dismiss the petition. (39th Legis., Ch. 205, Sec. 2, sen. 4, 5.)

§ 55.044. Multi-county District: Notice of Election

On receiving a certified copy of the findings of the commission authorizing the election, the commissioners court of each county shall have notices of the election posted, in the manner provided for an election to create a single-county district, for not less than 15 nor more than 30 days before the date of the election. (39th Legis., Ch. 205, Sec. 2, sen. 6.)

§ 55.045. Multi-county District: Rules Governing Election

Except as provided by the succeeding sections, the election shall be held, the returns made and canvassed, and the results declared, as provided in the case of a single-county district. (R.S. Art. 7634, sen. 7; 39th Legis., Ch. 205, Sec. 2, sen. 7, 8, 9.)

§ 55.046. Multi-county District: Election Returns, Canvass, Result

(a) The commission shall designate the county judge of one of the counties in the proposed district to act as a canvassing board to receive and canvass the votes cast and to declare the result of the election.

(b) In each county, the officers appointed by the commissioners court to hold the election shall return the results to the commissioners court and shall return all ballot boxes to the county clerk.

(c) On receiving the returns of the election, the commissioners court shall canvass the returns and certify the result of the election in the county to the county judge appointed to act as canvassing board.

(d) When the county judge receives the returns from all the counties, he shall canvass the returns and certify the result of the election to the commissioners court of each county, which shall enter the result of the election in its permanent records.

(e) If the proposition to create the district is carried, the county judge acting as the canvassing board shall make and transmit to each commissioners court an appropriate order declaring that the district is created and describing its boundaries. He shall also issue certificates of election to the persons elected as directors, who shall proceed with the organization of the district as otherwise provided by this chapter. (R.S. Art. 7730; Art. 7635, sen. 3.)

§ 55.047. Exclusion of City, Unincorporated Area, or County Voting against District

(a) As used in this section:

- (1) "city" includes town or other municipal corporation; and
- (2) "unincorporated area" means an area not included within the boundaries of a city.

(b) Each city included within the boundaries of the proposed district shall be treated as a separate voting unit, and the votes cast in the city shall be counted and canvassed to show the result of the election in the city. No city shall be included in the district unless the majority of the votes cast in the city favor creation of the district.

(c) If the proposed district includes both incorporated and unincorporated areas in a county, the unincorporated area shall not be included in the district unless the majority of the votes cast in the unincorporated area favor creation of the district.

(d) No district, the major portion of which is in one county, shall be organized to include land in another county unless the majority of the votes cast in the other county favor creation of the district.

(e) If any portion of a proposed district, under the provisions of this section, votes against creation of the district, and the remaining area of the proposed district votes for the district, then the proposition shall be adopted and the district confirmed except as to the territory voting against the district.

(f) All property in the territory of the district as originally proposed is subject to taxation for the payment of all debts and obligations, including organization expenses, incurred while part of the district.

(g) If at least 10 percent of the qualified electors of the area remaining in the district file a petition with the board of directors requesting a new election on creation of the district, then a new election shall be ordered and held for the remaining area, or the district organization may be dissolved by order of the board of directors and a new district formed. (39th Legis., Ch. 205, Sec. 3.)

§ 55.048. Name of District

(a) The name of a district wholly within one county shall include the name of the county and a number. Districts wholly within one county shall be numbered consecutively as created, and no two districts may have the same number.

(b) The name of a district with territory in two or more counties may include the names of those counties, or the district may adopt any appropriate name. The name may include a number, but the number may not

be the same as the number of a district in any of the counties. The number of a district created in any county may not be the same as the number of a district with territory in that county and other counties. (R.S. Arts. 7636, 7637.)

§ 55.049. Survey of District Boundaries

Immediately after the directors are qualified, the board shall order a survey of the boundaries of the district to be made according to the boundaries designated in the petition for creation of the district, or the board shall adopt, in whole or in part, the boundaries already established, and order the boundaries marked by suitable monuments. (R.S. Art. 7645.)

§ 55.050. Chapter Applicable to Irrigation Districts

Irrigation districts created under the laws of 1905, 1913, and 1915 (Chapter 50, Acts of the 29th Legislature, 1905; Chapter 172, Acts of the 33rd Legislature, 1913; and Chapter 138, Acts of the 34th Legislature, 1915), are governed by the provisions of this chapter. (R.S. Art. 7764, sen. 3 (part).)

§ 55.051. Change of District Name

(a) An irrigation district created under the law of 1905, 1913, or 1915 (Chapter 50, Acts of the 29th Legislature, 1905; Chapter 172, Acts of the 33rd Legislature, 1913; and Chapter 138, Acts of the 34th Legislature, 1915), may change the name of the district to the name provided in this chapter by filing a declaration to change the name with the commissioners court of the county in which the district is located.

(b) The declaration to change the district's name shall be in the form of a deed of conveyance and shall be acknowledged by the president and secretary of the board. It shall include a copy of the minutes of the board and the resolution adopted to change the name.

(c) After the declaration is recorded, the name of the district shall be changed. (R.S. Art. 7764, sen. 5.)

§ 55.052. Suits Contesting Creation of District, Etc.

Except as otherwise provided by this chapter, no suit may be brought enjoining creation of a district, contesting the validity of the proceedings creating the district, enjoining the issuance of bonds or contesting their validity, or enjoining the execution of a contract with the United States or contesting its validity, except by the attorney general, in the name of the State of Texas, on his own motion or on the motion of any affected party on good cause shown. (R.S. Art. 7702.)

§ 55.053. Conversion of Article III, Section 52 District To Article XVI, Section 59 District

(a) A water improvement district created subject to the limitations of Article III, Section 52, of the Texas Constitution, may be converted into a water improvement district operating under the authority of Article XVI, Section 59, of the Texas Constitution, as provided by this section.

(b) On the petition of 20 percent of the owners of land in the district, the board of directors shall order an election to determine whether the district shall be converted to a district operating under Article XVI, Section 59, of the Texas Constitution. The election shall be conducted under the rules applicable to general elections in the district. The ballots shall be printed to provide for voting for or against: "Conservation and Reclamation."

(c) The board shall canvass the returns, make an order declaring the result of the election, and have the order recorded in the deed records of the county or counties in which the district is located. If the result of

the election is affirmative, the district begins operating under Article XVI, Section 59, of the Texas Constitution, without change of name or impairment of its obligations, when the order is recorded. (R.S. Arts. 7802-7806.)

[Sections 55.054 to 55.100 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 55.101. Board of Directors

The governing body of a district is the board of directors. (R.S. Art. 7652 (part); Art. 7765 (part).)

§ 55.102. Qualifications of Directors

To be qualified for election as a director, a person must be a resident of the state, own land subject to taxation in the district, and be more than 21 years of age at the time of the election. (R.S. Art. 7641.)

§ 55.103. Application to Get on Ballot

(a) A person qualified to serve as a director may file an application with the secretary to have his name printed on the election ballots. The application must be signed by the applicant or by at least 10 qualified electors of the district and must be filed at least 20 days before the date of the election.

(b) Only persons for whom applications are filed under this section may have their names printed on the ballots. However, nothing in this section prevents write-in votes. (42nd Legis., Ch. 13, Sec. 1.)

§ 55.104. Election Date: General Rule

Except as provided by Section 55.106 of this code, the general election of five directors shall be held in the district on the second Tuesday of January in each even-numbered year. (R.S. Art. 7718, Sec. (a), as amended.)

§ 55.105. Conduct of Elections

All district elections shall be held in accordance with the general election law except as otherwise provided by this chapter. The board of directors shall appoint necessary election officers, designate the polling places, receive and canvass the election returns, declare the result, and perform all other duties necessary to the proper conduct of the elections. (R.S. Art. 7719.)

§ 55.106. Term of Office

Except as provided by Section 55.107 of this code, a director holds office for a term of two years and until his successor is elected and has qualified. (R.S. Art. 7717.)

§ 55.107. Optional Conversion to Staggered Terms

(a) The board, by resolution adopted before December 1 of any year on the vote of at least four directors, may adopt the system of staggered two-year terms of office as provided by this section.

(b) On the second Tuesday in January immediately succeeding adoption of the resolution, five directors shall be elected. Of the five elected, the two receiving the fewest votes shall serve for one year and the other three shall serve for two years. However, if the vote is such that two of them do not receive fewer votes than the other three, then the directors

shall determine by lot which two will serve one year and which three will serve two years.

(c) After the election provided for in Subsection (b) of this section, an election shall be held on the second Tuesday of January of each year to elect successors for the directors whose terms expire, to hold office for terms of two years. (R.S. Art. 7718, Sec. (b), as amended.)

§ 55.108. Appointment of Directors in Certain Districts

(a) If the petition to create a district proposes a district which would contain no more than 12,000 acres of land, and if at least 60 percent of the land is owned by persons who do not reside in the district, the petition may request that the directors be appointed by the commissioners court. If so, the directors shall be appointed instead of elected. The commissioners court shall appoint the directors at the time otherwise fixed for electing directors, or if the court is not in session at that time, it shall appoint the directors as soon as possible.

(b) The owners of land in the district may file petitions with the commissioners court expressing their choice of persons to be selected as directors. If the owners of at least 60 percent of the land agree on the persons to be appointed, the commissioners court shall appoint those persons. Otherwise, the court shall appoint suitable, qualified persons as directors. (R.S. Art. 7718, Sec. (c), as amended.)

§ 55.109. Oath and Bond

(a) Each director shall take the oath of office prescribed by law for county commissioners, except that the name of the district shall be substituted for the name of the county.

(b) Within 10 days after the commissioners court enters its order declaring the result of the election and the creation of the district, or as soon after that time as practicable, each director shall execute a good and sufficient bond for \$5,000, payable to the district, conditioned on the faithful performance of his duties.

(c) The bond of each director elected in the election to create the district is subject to the approval of the commissioners court. After the organization of the district, all bonds required to be given by any director, officer, or employee of the district are subject to the approval of the board.

(d) The county clerk shall record each bond and oath in the official bond records of the county and shall deliver them to the district depository to be preserved as a part of the records of the district. (R.S. Art. 7639.)

§ 55.110. Additional Bonds

(a) If a district is appointed fiscal agent of the United States or is authorized to collect money for and in behalf of the United States in connection with any federal reclamation project, the assessor and collector and each director shall execute an additional bond in an amount set by the secretary of the interior, conditioned on the faithful performance of the duties of his office and the faithful performance by the district of its duties as fiscal or other agent of the United States.

(b) The additional bonds shall be approved, recorded, and filed as provided for other official bonds. The additional bonds may be sued on by the United States or by any person injured by failure of the officer or the district to perform fully, promptly, and completely the required duties. (R.S. Art. 7644.)

§ 55.111. Compensation of Directors

(a) A director is entitled to receive not more than \$25 a day for each day he actually spends performing his duties as a director.

(b) Before a director may receive compensation for his services, he shall file with the secretary an affidavit stating the number of days actually spent in the service of the district. The affidavit shall be filed on the last Saturday of each month, or as soon after that time as practicable. (R.S. Art. 7722.)

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 942, ch. 154, § 1, eff. Aug. 30, 1971.

§ 55.112. Officers; Quorum

(a) After each regular election, the board shall elect one director president and one secretary. The board may elect a president pro tem and a secretary pro tem, who shall act in the absence or inability of the president or secretary. (R.S. Art. 7640, sen. 1, 2.)

(b) Three directors constitute a quorum for any meeting; and a concurrence of three is sufficient for transacting any business of the district except letting construction contracts and drawing warrants on the depository, which require the concurrence of four directors. Warrants to pay current expenses, salaries, and labor and material accounts may be drawn by an officer or employee designated by standing order of the directors when these accounts have been contracted and ordered paid by the directors. (R.S. Art. 7640, sen. 3.)

§ 55.113. Vacancies on Board

(a) Except as otherwise provided by this section, all vacancies on the board shall be filled by appointment of the board.

(b) If the number of directors is reduced for any cause to fewer than three, then the vacancies shall be filled by special election ordered by the president of the board or by two directors. If the president or two directors fail or refuse to order an election, then five persons who are either taxpayers or bondholders of the district may petition the judge of any judicial district in which land of the district is located, and the judge shall order the election.

(c) If an election is ordered under this section, then notice shall be given and the election shall be held as provided for general elections.

(d) If less than a quorum exists to approve the bonds of elected directors, then the bond for each director shall be approved by the commissioners court of the county of his residence.

(e) A director appointed or elected under this section holds office until the next general election and until his successor is elected and has qualified. (R.S. Art. 7721.)

§ 55.114. General Manager

(a) The board may employ a general manager.

(b) In addition to other powers granted and duties imposed by the board, the general manager shall:

(1) manage the district's water distribution system, subject to the rules and regulations of the board;

(2) appoint and discharge district employees, except the tax assessor and collector;

(3) purchase and contract for all supplies necessary for the water distribution system, after the board has authorized the purchases;

(4) collect the assessments for operation and maintenance; and

(5) execute, on behalf of the district, water contracts and other contracts not required to be executed by the board or by the president and secretary. (R.S. Art. 7772, sen. 1.)

§ 55.115. Director as Manager

A director may be employed as general manager with compensation fixed by the other four directors. When so employed, he shall also per-

form the duties of a director without the compensation specifically provided for directors. (R.S. Art. 7652 (part).)

§ 55.116. District Tax Assessor and Collector

The board may appoint one person to the office of tax assessor and collector, or it may order an election to fill that office. (R.S. Art. 7642, sen. 1, 2, as amended.)

§ 55.117. Tax Assessor and Collector's Bond

(a) The tax assessor and collector shall execute a good and sufficient bond signed by two good and sufficient sureties and approved by the board. The bond shall be conditioned on the faithful performance of his duties and on paying over to the depository all money or other things of value that he receives in his capacity as tax assessor and collector.

(b) The amount of the assessor and collector's bond shall be determined in the same manner provided by law for determining the amount of the county assessor and collector's bond.

(c) The board may require the tax assessor and collector to give additional bonds or security or a larger bond at any time. (R.S. Art. 7642, sen. 3, 4, as amended.)

Amended by Acts 1971, 62nd Leg., p. 1767, ch. 518, § 1, eff. May 31, 1971.

§ 55.118. Deputy Tax Assessor and Collectors

(a) The board may appoint one or more deputies to assist the tax assessor and collector for a period not to exceed one year.

(b) Each deputy shall perform duties as determined by the board, and the board may discharge a deputy at any time.

(c) Each deputy shall execute a bond in an amount determined by the board at the time of his appointment and at any other time as ordered by the board. (R.S. Art. 7643, sen. 2, 3, 4.)

§ 55.119. Compensation of Tax Assessor and Collector and Deputies

The board shall fix the compensation of the tax assessor and collector and each deputy. (R.S. Art. 7643, sen. 1.)

Amended by Acts 1971, 62nd Leg., p. 1767, ch. 518, § 1, eff. May 31, 1971.

§ 55.120. Additional Duties

The board may require the tax assessor and collector to perform duties other than those specified in this chapter and may provide additional compensation for performing the additional duties. (R.S. Art. 7643, sen. 5.)

§ 55.121. Other Employees

The general manager, or the board if no general manager is appointed, shall employ the employees necessary for the proper operation of the district, including attorneys, bookkeepers, engineers, watermasters, and necessary assistants and laborers. (R.S. Art. 7652 (part); Art. 7772, sen. 2.)

§ 55.122. Employees: Compensation and Terms of Employment

The manager and the employees shall be employed for the period of time and on terms and conditions deemed most favorable for the district. However, no employment contract may be made for a period of more than one year, and the salary or compensation shall be fixed at the time of employment. (R.S. Art. 7720; Art. 7772, sen. 3.)

§ 55.123. Surety Company Bond

(a) An officer or employee of a district who is required to execute a bond or give security may execute a bond of a surety company, subject to the approval of the board. The surety company furnishing the bond shall file with the county clerk a power of attorney, executed by the officers of the company and bearing the company seal, showing that the person who signed the bond for the company had the authority to do so.

(b) The power of attorney shall be kept on file in the county clerk's office, and the bond shall be preserved as property of the district. (R.S. Art. 7760.)

§ 55.124. District Office

The board shall maintain a regular office suitable for conducting the affairs of the district. The office shall be located within the district, or in a city or town proximate to the district and in the same county or counties, if the city or town is best suited for transacting the business of the district and is accessible to the residents of the district. (R.S. Art. 7759, sen. 1; R.S. Art. 7780.)

§ 55.125. Meetings

(a) The board shall hold all meetings at the district office.

(b) The board shall hold regular meetings at 10 a. m. on the first Monday in February, May, August, and November of each year, and may hold other regular or special meetings.

(c) Any resident taxpayer or interested person may attend any meeting of the board and present matters for the board's consideration, but no person may participate in any meeting without the consent of the board, and no person other than the directors may vote on any matter considered by the board. (R.S. Art. 7761, sen. 1; Art. 7759, sen. 2, 3.)

§ 55.126. Suits

A district may sue and be sued in the courts of this state in the name of the district. All courts of this state shall take judicial notice of the creation of the district and of its boundaries. (R.S. Art. 7655 (part).)

§ 55.127. Contracts

District contracts shall be executed by the board in the name of the district. (R.S. Art. 7652 (part); Art. 7655 (part).)

§ 55.128. Prohibited Interests of Directors

(a) No director, district engineer, or district employee, either for himself or as agent for anyone else, may be directly or indirectly interested in any contract for the purchase or construction of any improvements by the district.

(b) A person who violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in jail for not less than six months nor more than one year, or by both. (R.S. Art. 7654.)

[Sections 55.129 to 55.160 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**Section 55.161. Purposes of District**

(a) A water improvement district may provide for irrigation of the land within its boundaries.

(b) A district operating under Article XVI, Section 59, of the Texas Constitution, may furnish water for domestic, power, and commercial purposes.

(c) A district may be formed to cooperate with the United States under the federal reclamation laws for the purpose of:

- (1) construction of irrigation and drainage facilities necessary to maintain the irrigability of the land;
- (2) purchase, extension, operation, or maintenance of constructed facilities; or
- (3) assumption, as principal or guarantor, of indebtedness to the United States on account of district lands. (R.S. Art. 7622, sen. 4, 5, as amended.)

§ 55.162. Machinery, Supplies, Etc.

The district may purchase work animals, machinery, and supplies needed in the construction, operation, and repair of district improvements. (R.S. Art. 7652 (part).)

§ 55.163. Improvements: Purchase or Construction

A district may purchase or construct improvements and facilities necessary for irrigation of land in the district, and if operating under Article XVI, Section 59, of the Texas Constitution, improvements and facilities necessary to supply, deliver, and sell water for domestic, power, and commercial purposes. (R.S. Art. 7622, sen. 3 (part); Art. 7656 (part); Art. 7765 (part).)

§ 55.164. Land; Rights-of-Way

The district may acquire by gift, grant, purchase, or condemnation, any land or right-of-way necessary or incident to the successful operation of its improvements, including rights-of-way for the enlargement, extension, or improvement of existing canals or ditches for the purpose of raising the canals or ditches jointly with the owners. (R.S. Art. 7656 (part).)

§ 55.165. Drainage Ditches: Levees

The board may include in the plans of the district the necessary drainage ditches, or other facilities for drainage, and levees for the protection of land in the district. The district may purchase all or part of any system belonging to a drainage district. However, the purchase contract shall provide for paying or assuming the debts of the drainage district, and the amount of the debts paid or assumed shall be considered in determining the bond-issuing capacity of the district. (R.S. Art. 7754.)

§ 55.166. Constructing Bridges and Culverts across and over County and Public Roads

The district shall build necessary bridges and culverts across and over district canals, laterals, and ditches which cross county or public roads. Funds of the district shall be used to construct the bridges and culverts. (R.S. Art. 7746.)

§ 55.167 Constructing Culverts and Bridges across and under Railroad Tracks and Roadways

(a) The district, at its own expense, may build necessary bridges and culverts across or under any railroad tracks or roadways to enable the district to construct and maintain any canal, lateral, or ditch which is a necessary part of its improvements.

(b) Before the district proceeds to build bridges and culverts, the board shall deliver to the legal agent, division superintendent, or roadmaster written notice. The railroad company shall have 30 days in which to build the bridges and culverts at its own expense and according to its own plans.

(c) The bridges and culverts shall be placed at points designated by the board or the district engineer and shall be constructed so that they

will not interfere with the free and unobstructed flow of water passing through the canal or ditch. (R.S. Art. 7745.)

§ 55.168. Right to Enter Land

(a) The board, the district engineer, and the employees of the district may enter any land inside the district to examine the land, to locate reservoirs, canals, dams, pumping plants, and other improvements, and to make maps and profiles of the land. The board, the district engineer, and the district's employees may also go outside the boundaries of the district to accomplish the same purposes for which they may enter land inside the district and for any other purposes related to those listed.

(b) A person who wilfully violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 for each day he violates the law. (R.S. Art. 7738.)

§ 55.169. Construction Contracts

The board shall enter into contracts with the lowest responsible bidders for construction of reservoirs, dams, canals, laterals, pumping plants, check gates, sluice gates, and other improvements for the district. This section does not apply to contracts made by the district with the United States. (R.S. Art. 7739 (part).)

§ 55.170. Notice of Taking Bids for Construction

The board shall give notice that it is taking bids for construction under Section 55.169 of this code by publishing notice once a week for four consecutive weeks in one or more newspapers with general circulation in the state and in one newspaper published in the county if a newspaper is published in the county and one newspaper published in the district if a newspaper is published in the district. Also, the board shall post notice for at least 20 days at the courthouse door and at five other public places in the district. (R.S. Art. 7739 (part).)

§ 55.171. Reports Furnished to Prospective Bidders

The board shall furnish to any person who desires to bid on construction work and who requests it a copy of the engineer's report and profile which show the work to be done. The board may charge for each copy of the engineer's report and profile an amount sufficient to cover the actual cost of having them made and furnished. (R.S. Art. 7740, sen. 1.)

§ 55.172. Construction Bids

Any person who desires to bid on proposed construction work shall submit to the president or the secretary of the board a written sealed bid together with a certified check for at least two percent of the total amount of the bid. Bids shall be opened at the same time, and the board may reject any or all of the bids. If the successful bidder refuses to enter into a proper contract with the district, he forfeits the amount of the certified check which accompanied his bid. (R.S. Art. 7740, sen. 2, 3, 4.)

§ 55.173. Provisions of Contracts for Construction Work

Any contract made by the board for construction work shall conform to the provisions of this chapter, and the provisions of this chapter will be considered to be a part of the contract and shall prevail when the provisions of this chapter and the contract are in conflict. The contract shall include a full statement of the specifications for work included in the contract, and all work shall be done in accordance with these specifications under the supervision of the board and the district engineer. (R.S. Art. 7741, sen. 1; R.S. Art. 7743.)

§ 55.174. Executing and Recording Construction Contract

Contracts for construction work shall be in writing and signed by the board and the contractor. A copy of the contract shall be filed with the county clerk, and the county clerk shall record the contract in a book kept for that purpose. The contract shall be available for public inspection. (R.S. Art. 7741, sen. 2.)

§ 55.175. Contractor's Bond

The contractor shall execute a bond in an amount determined by the board, not to exceed the contract price, payable to the district and approved by the board, conditioned on the faithful performance of the obligations, agreements, and covenants of the contract. The bond shall provide that if the contractor defaults on the contract, he will pay to the district all damages sustained as a result of the default. The bond shall be deposited in the district depository, and a copy of the bond shall be kept in the office of the board. (R.S. Art. 7742.)

§ 55.176. Inspection of and Reports on Construction Work

(a) The board shall inspect construction work being done for the district under contract to determine whether or not the contract is being fulfilled. (R.S. Art. 7748 (part).)

(b) During the progress of the construction work, the district engineer shall submit to the board detailed reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report showing whether or not the contractor has fully complied with the contract and stating any particular instances in which the contract was not fulfilled. The board is not bound by the report of the district engineer and may investigate the work to determine if the contractor complied with the contract. (R.S. Art. 7744.)

§ 55.177. Payment for Construction Work

When construction work is completed according to the terms of the contract, the board shall draw a warrant on the district depository payable to the contractor or his assignee in the amount owed the contractor under the contract. (R.S. Art. 7748 (part).)

§ 55.178. Partial Payment of Construction Work

In order to obtain more favorable contracts, the board may authorize construction work to be paid for in partial payments as the work progresses. The total amount of partial payments made under the contract may not be more than the amount due for 85 percent of the work done under the contract. The district engineer shall indicate the amount of work completed in a certified report. (R.S. Art. 7748 (part).)

§ 55.179. Joint Ownership Contracts

Two or more districts may enter into a contract to jointly own and construct irrigation works and reservoirs. The contract may include provisions for joint construction and operation, but the terms and conditions may not conflict with the laws providing for the organization and operation of the districts. The parties joining in the contract shall have the terms of their agreement incorporated into a written or printed contract. (R.S. Art. 7763, sen. 1, 4 (part), 7.)

§ 55.180. Election to Approve a Joint Ownership and Construction Contract

(a) Before the districts may be bound by a joint ownership and construction contract made under Section 55.179 of this code, an election to approve the contract must be held in each of the districts.

(b) The election to approve the contract shall be held on the same day in each district.

(c) At least 15 days before the day of the election, a copy of the contract must be filed in the office of each of the districts and be made available for public inspection. During the 15-day period immediately preceding the day of the election, each district must furnish a copy of the contract to any elector who appears at the office and requests a copy.

(d) If a majority of the electors in each district approve the contract at the election, the contract is adopted and is binding.

(e) The contract may be amended in the manner provided for adopting the original contract. (R.S. Art. 7763, sen. 2, 3, 4 (part), 8.)

§ 55.181. General Manager for Joint Projects

The boards of the districts which are parties to a joint ownership and construction contract may employ a general manager for the joint project. The duties of the general manager may be included in the provisions of the joint contract. (R.S. Art. 7763, sen. 6.)

§ 55.182. Transactions in District Names under Joint Ownership and Construction Contracts

All bids, bonds, contracts, and other transactions made under a joint ownership and construction contract may be made in the names of the districts which are parties to the contract. (R.S. Art. 7763, sen. 5 (part).)

§ 55.183. Joint Projects under Joint Ownership and Construction Contracts

(a) When districts operating under a joint ownership and construction contract plan to construct any improvements, the districts may call jointly for bids on these improvements.

(b) The bids may be opened and considered at the office of any of the districts which are parties to the contract.

(c) The boards shall approve the award of the contract and the contractor's bond. The boards may meet for this purpose either at an office outside the districts or at an office established for transaction of all business of the joint project. (R.S. Art. 7763, sen. 5 (part).)

§ 55.184. Additional Powers of Districts under Joint Ownership and Construction Contracts

Districts which are acting under a joint ownership and construction contract may exercise jointly all powers which may be exercised by a single district. (R.S. Art. 7763, sen. 5 (part).)

§ 55.185. Contract With the United States

The board may enter into a contract or other obligation with the United States for the following purposes:

- (1) to construct, operate, and maintain necessary facilities to deliver and distribute water;
- (2) to drain district land;
- (3) to assume debt for district land;
- (4) to rent temporarily United States water for use on district land under the federal reclamation laws; or
- (5) to furnish a water supply to the district under any act of Congress which authorizes it. (R.S. Art. 7653 (part).)

§ 55.186. Payments Made by a District under a Contract with the United States

(a) If a district enters into a contract with the United States, the district may deposit with the United States district bonds at 90 percent of

par value to pay the amount owed by the district under the contract. The district shall pay interest on the bonds in the same manner that other bonds of the district are paid. Interest shall be paid regularly to the United States and applied in the manner provided in the contract.

(b) If bonds are not deposited as provided in Subsection (a) of this section, the board shall include in any levy or assessment made by the district an amount sufficient to make annual payments under the terms of the contract. (R.S. Art. 7653 (part).)

§ 55.187. District as Fiscal Agent for United States

The board may accept on behalf of the district appointment as the fiscal agent for the United States on any federal reclamation project. As fiscal agent, the district may assume the duties and perform the acts incident to this capacity and shall do anything required by federal statutes and rules and regulations established by any department of the federal government. (R.S. Art. 7653 (part).)

§ 55.188. Conveying Property to the United States

If the district enters into a contract with the United States, the board may convey to the United States any property which is necessary for constructing, operating, and maintaining improvements for the benefit of the district. (R.S. Art. 7657.)

§ 55.189. Contracts and Agreements with Other Districts

(a) The board may enter into a contract or other obligation with any other water improvement district, any water control and improvement district, or any conservation and reclamation district to construct, operate, and maintain necessary facilities for the delivery and distribution of water from the other district or to drain district land and may enter into a contract with the same district for that district to pump and supply water.

(b) The contract may include provisions for the joint construction and operation of necessary facilities for delivery and distribution of the water supply, but the terms and conditions of the contract may not conflict with the law providing for the organization and operation of the districts.

(c) The agreement of the parties shall be included in a written contract. The contract shall be acknowledged in the manner and form provided by law for conveyance of real estate, and shall be recorded in the real estate records of the county or counties in which the districts are located.

(d) The boards of the districts which are parties to the contract may amend the contract by mutual agreement. (R.S. Art. 7653a, sen. 1 (part), 2, 3, 4.)

§ 55.190. Issuing Bonds to Pay Cost of Projects under Contracts with Other Districts

Any district which enters into a contract under Sec. 55.189 of this code may issue bonds to pay for carrying out the provisions of and paying obligations under the contract. The district may issue the bonds separately or as part of a general bond issue of the district, in the manner and subject to the regulations, terms, conditions, and provisions of other bonds issued under this chapter. (R.S. Art. 7653a, sen. 5, 6.)

§ 55.191. Providing Facilities for Water Supply Obtained from Other Districts

Any district which has entered into a contract to obtain a water supply under Section 55.189 of this code may make or purchase improvements necessary to receive and distribute the water supply to lands in the district for district purposes. (R.S. Art. 7653a, sen. 1 (part).)

§ 55.192. Acquiring Water Rights

Any district may acquire water rights in the manner provided by law. (R.S. Art. 7765 (part).)

§ 55.193. Selling Water Rights

(a) Any district which has a permit issued by the Texas Water Rights Commission to construct a reservoir and to appropriate water from a stream or watershed for irrigation or other purposes may convey to another district an interest in the reservoir or water rights.

(b) The conveyance shall be recorded in the office of the county clerk of the county in which the property is located and in the office of the Texas Water Rights Commission.

(c) The conveyance, when filed, shall convey all rights in the interest conveyed which were held under the permit by the district conveying the interest.

(d) After the conveyance is filed in the office of the Texas Water Rights Commission, the rights conveyed vest in the district to which the conveyance was made as if the rights were granted directly by the Texas Water Rights Commission. (R.S. Art. 7800.)

§ 55.194. Transfer of Water Right

If there is land in a district which has a water right from a source of supply acquired by the district but the land is difficult or impracticable to irrigate from that source of supply, the district may allow transfer of the water right to other land which is adjacent to the district. The adjacent land may be admitted to the district with the same right of water service as other land already in the district. (R.S. Art. 7767.)

§ 55.195. Supplying Water to Cities Outside the District

When a district acquires an established irrigation system which supplies water to landowners in a city, town, or village which is not included in the district, the district shall continue to supply water to the landowners at a reasonable annual rate. (R.S. Art. 7750.)

§ 55.196. Selling Waterpower Privileges

The district may enter into a contract to sell waterpower privileges if power can be generated from water flowing from the district's reservoirs and irrigation system. The sale of waterpower privileges may not interfere with the district's obligation to furnish an adequate supply of water for irrigation and for municipal purposes in districts which furnish water for municipal purposes. (R.S. Art. 7790.)

§ 55.197. Selling Surplus Water

The district may sell to any person who owns or uses land in the vicinity of the district any surplus district water for use in irrigation or for domestic or commercial uses. (R.S. Art. 7792 (part), as amended.)

§ 55.198. Pumping and Delivering Water to Land near District

The district may enter into a contract with a person who owns or uses land in the vicinity of the district and who has a permit from the Texas Water Rights Commission to appropriate water for use in irrigation or for domestic or commercial uses to pump or deliver the water to the person's land. (R.S. Art. 7792 (part), as amended.)

§ 55.199. Sale of Land which Is No Longer Needed for District Purposes

(a) The board may sell to the highest bidder at a public sale any land or interest in land which was acquired by the district to carry out its plans and which is no longer necessary to carry out that purpose.

(b) Before the land is sold, the district must publish notice of the sale once a week for two consecutive weeks in one or more newspapers which have general circulation in the district. The first notice must be published at least 10 days before the sale.

(c) The district may use the proceeds from the sale to add to or improve district improvements for which other funds are not available, and any funds which are not needed for this purpose shall be placed in the interest and sinking fund to retire the district's outstanding bonds. The board may use for any other lawful purpose any remaining funds which are not required to accomplish the purposes stated above. (57th Legis., Ch. 124, Sec. 1, 2.)

§ 55.200. Sale of Land Acquired by a District for Other than District Purposes

The district may sell to the highest bidder at a public sale any land acquired by the district through foreclosure of liens for maintenance and operation assessments or acquired by the district for any purpose other than carrying out its plans. The board may use proceeds from the sale for making improvements in the district, for maintenance and operation of the district's system, or for carrying on district business. (57th Legis., Ch. 124, Sec. 3.)

§ 55.201. Use of Excess District Money

After all district improvements are completed and all expenses are paid, the board may use any remaining money to preserve, maintain, and repair district improvements. (R.S. Art. 7747.)

§ 55.202. Board's Semiannual Report

On the first day of January and July of each year, the board shall make and verify a report which shows in detail the kind, character, and amount of improvements constructed in the district, the cost of the improvements, the amount of each warrant paid, the person to whom each warrant was paid, the purpose for which each warrant was paid, and other data necessary to show the condition of improvements made. The report shall be filed with the county clerk in the county or counties in which the district is located and made available for public inspection. (R.S. Art. 7749.)

§ 55.203. Court Actions

Any district through its board of directors may bring suit

- (1) to protect its water supply and other rights and property;
- (2) to prevent unlawful or unwarranted interference with or diversion of the water supply;
- (3) to protect its bonds and other indebtedness; and
- (4) to maintain its taxable and assessable values. (R.S. Arts. 7797, 7798.)

§ 55.204. Waiver of District Tort Immunity

If the board finds that it is in the best interest of the district and that it is necessary to enable the district to enter into a contract to employ Mexican laborers, it may enter into a written contract to waive in advance the district's immunity from liability in damages for personal injuries and sickness which is proximately caused by torts of the district or negligence of agents or employees of the district and which is suffered by Mexican laborers employed by the district under the terms of the Migrant Labor Agreement of 1951 between the United States and Mexico or any subsequent agreement of a similar nature. (56th Legis., 2nd C.S., Ch. 15, Sec. 1.)

SUBCHAPTER E. REGULATORY POWERS**Section 55.241. Purpose**

The powers granted to the district and its board under this subchapter are for the purpose of helping the district to maintain the purity of district water, to protect the preservation and use of the water, to protect the lives of persons who desire to go on, over, or across the water, and to insure the safety of persons using the water. (44th Legis., Ch. 293, Subsec. 1, sen. 5.)

§ 55.242. Rules and Regulations

The board may make and adopt reasonable rules and regulations which are necessary

- (1) to preserve the sanitary condition of water controlled by the district;
- (2) to prevent waste or unauthorized use of water; and
- (3) to regulate residence, boating, camping, and recreational and business privileges on any land or water owned or controlled by the district. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part).)

§ 55.243. Notice of Rules and Regulations

(a) Before a rule or regulation providing for a penalty may be effective, the district must publish a substantial statement of the rule or regulation and the penalty in one or more newspapers with general circulation in the district once a week for two consecutive weeks.

(b) The published statement shall be as condensed as possible so that the object to be accomplished or the act which is forbidden by the rule or regulation can be easily understood.

(c) The publication of notice may include notice of any number of rules and regulations.

(d) The notice shall include a statement that the violation of a rule or regulation will subject the person who violates it to a penalty and that a complete copy of the rule or regulation is on file in the principal office of the district and may be inspected.

(e) A rule or regulation shall be effective five days after the second publication of the notice, and ignorance of the rule or regulation does not constitute a defense to prosecution for enforcement of the penalty. (44th Legis., Ch. 293, Subsec. 2, sen. 2 (part), 3 (part).)

§ 55.244. Judicial Notice of Rules and Regulations

The courts shall take judicial notice of rules and regulations made and adopted under this subchapter. The rules and regulations shall be considered to be similar in nature to valid penal ordinances of a city. (44th Legis., Ch. 293, Subsec. 2, sen. 3 (part).)

§ 55.245. Contracts for Toll Bridges and Ferry Services

(a) The board has the exclusive right to enter into a contract with any responsible person to construct and operate toll bridges over water regulated by the district or to provide ferry service or other means of passenger transportation on water regulated by the district.

(b) A contract for construction and operation of a toll bridge may not extend for a period of more than 20 years and a contract providing for ferry service or other types of transportation may not extend for a period of more than 10 years.

(c) The contract may provide for forfeiture of the franchise or rights granted for failure of the licensee or other contracting party to render adequate and safe public service. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part).)

§ 55.246. Bond

The board shall require any person with whom it enters into a contract under Section 55.245 of this code to execute an adequate bond in an amount not to exceed \$1,000, payable to the district and conditioned as the board requires. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part).)

§ 55.247. License, Franchise, and Fee

(a) Before a person may keep or operate for hire on district water a ferry or other type of transportation, the person must obtain a license or franchise from the board.

(b) The board may fix the fee to be charged for the license or franchise in an amount not to exceed \$250 a year, and shall fix the fee according to the type of boat used. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part), 2.)

§ 55.248. Charges for Use of Toll Bridge Facilities and Ferry Service

The board may fix a reasonable amount of compensation to be charged by the owner or operator of a toll bridge or a ferry service or other type of transportation service for use of the facilities. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part).)

§ 55.249. Regulating Boats

(a) The district may prescribe the type of boats to be used on district water to carry persons for hire and for recreational purposes and may require the owner of a boat to submit the boat at a reasonable time to inspection to determine if the boat is serviceable.

(b) In an effort to protect the lives of the occupants of boats and persons using district water, the district may prescribe reasonable requirements for the use and manner in which they are used. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part).)

§ 55.250. Responsibilities of Boat Owners and Operators

(a) The owner or operator of a boat used as a ferry or other type of transportation shall keep the boat and boat landings in good and safe condition.

(b) The district is not liable for any negligent act or failure of duty on the part of the owner or operator of the boat. (44th Legis., Ch. 293, Subsec. 1, sen. 3, 4.)

§ 55.251. Peace Officers

The district may employ and constitute its own peace officers. The peace officers may make arrests when necessary to prevent or abate the commission of an offense against the regulations of the district or state laws if the offense occurs or is about to occur on land or water owned or controlled by the district. Arrests also may be made any place where an offense is being committed which involves injury or detriment to any property owned or controlled by the district. (44th Legis., Ch. 293, Subsec. 3.)

§ 55.252. Penalty for Violation of Subchapter

(a) A person who violates the provisions of this subchapter or rules and regulations of the district upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than 30 days, or by both.

(b) The penalties provided by this section are in addition to other penalties provided by Texas law, and may be enforced by a complaint filed in a court of competent jurisdiction in the county in which the district's principal office is located. (44th Legis., Ch. 293, Subsec. 2, sen. 1, sen. 2 (part).)

§ 55.253. Injunction

In addition to the penalties provided by this subchapter, the district may seek an injunction in a court of competent jurisdiction in the county in which district water is located to enforce the provisions of this subchapter and rules and regulations of the district. (44th Legis., Ch. 293, Subsec. 4.)

[Sections 55.254 to 55.290 reserved for expansion]

SUBCHAPTER F. EMINENT DOMAIN**Section 55.291. Power of Eminent Domain**

(a) Except as otherwise provided in this subchapter, the district may exercise the power of eminent domain to acquire by condemnation any property interest for the purposes stated in Section 55.292 of this code. The district also may acquire by condemnation from any land located in the district or within one mile of any district improvements earth, gravel, stone, clay, or any other materials which are needed to accomplish any of the purposes for which the district may condemn land.

(b) Land acquired under Subsection (a) of this section may be private or public and may be located inside or outside the district. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 1, sen. 1 (part), 2).

§ 55.292. Purposes for which Land May Be Condemned

The district may condemn land for the following purposes:

(1) to construct, maintain, operate, police, and protect dams, reservoirs, canals, laterals, pumping sites, drainage ditches, levees, and other improvements necessary and proper for the district;

(2) to provide sites for construction and working purposes; and

(3) to provide passways and roadways along or to and from any dams, reservoirs, canals, laterals, pumping sites, drainage ditches, levees, and other district improvements. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 1, sen. 1 (part).)

§ 55.293. Land Exempt from Condemnation

The district may not condemn any property used to supply water under Texas law and necessary to make reservoirs, canals, laterals, pumping sites, levee or drainage ditches, or other appurtenant works. If the district is not operating under Article XVI, Section 59, of the Texas Constitution, it may not condemn property used for cemetery purposes. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 1, sen. 3.)

§ 55.294. Right to Remove Timbers and Other Materials from Condemned Land

The district is entitled to remove from any property which it takes by condemnation any timber or other materials necessary to construct, maintain, and operate any of the district's improvements or other structures. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 2.)

§ 55.295. Compensation Paid for Property Taken by Condemnation

The owner of property which is taken, damaged, or destroyed through the exercise of the power of eminent domain shall receive adequate compensation. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 1, sen. 4.)

§ 55.296. Law Governing Eminent Domain Proceedings

Except as otherwise provided in this subchapter, procedure for condemnation, appeal, and payment and for assessing damages shall conform

to the law found in Title 52, Revised Civil Statutes of Texas, 1925, as amended. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 3 (part).)

§ 55.297. Condemnation Proceedings

Condemnation proceedings shall be handled in the name of the district and under the direction of the board. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 3 (part).)

§ 55.298. Simultaneous Condemnation of Several Parcels of Property

A petition for condemnation may include several parcels of property located in the same county whether the parcels are owned by the same person or persons or by several different persons. Compensation or damages paid for parcels of property which are owned by the same person or persons may be assessed separately or together, but if the parcels of property are separately owned by several different persons, compensation shall be assessed separately for each ownership. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 3 (part).)

§ 55.299. Jurisdiction over Persons Who Are Unknown or under a Disability

In condemnation proceedings, the jurisdiction of the court may be invoked by alleging that the person owning the land or an interest in the land to be condemned cannot be found after a diligent search, that his residence is unknown, or that he is a minor or has some other legal disability. This allegation is a sufficient statement that the district and the owner are unable to agree on the value of the land or on the amount of damages. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 3 (part).)

§ 55.300. Title Disputes Involving Condemned Property

(a) A district court in the county in which condemnation proceedings are pending shall have jurisdiction to determine conflicting and adverse claims to property and to award damages.

(b) If title to property is in dispute between two or more parties or there are conflicting or adverse claims, the damages shall be paid to the court until the dispute is resolved and then shall be paid to the rightful owner. (41st Legis., 5th C.S.G.L., Ch. 7, Sec. 3 (part).)

Amended by Acts 1971, 62nd Leg., p. 1767, ch. 518, § 1, eff. May 31, 1971.

§ 55.301. Omitting Property Owners from Proceedings and Failing to Notify Property Owners of Proceedings

If a property owner is omitted from the condemnation proceedings or fails to receive notice of the proceedings, the omission or failure does not invalidate the proceedings and judgment of condemnation covering any person who was a party to the proceedings and who received proper legal notice. The property or interest in property which belongs to a person who was omitted from the proceedings or who failed to receive notice may be acquired by condemnation in subsequent condemnation proceedings. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 4.)

§ 55.302. Payment of Compensation and Damages

Compensation and damages awarded in condemnation proceedings shall be paid from the construction and maintenance fund of the district. (R. S. Art. 7723, sen. 2 (part).)

§ 55.303. Title Disputes and Appeals from Damage Assessments not to Suspend Work of District

The work of the district in connection with property to be acquired by condemnation may not be suspended because of delay in determining the

rightful owner of the property or because of appeal from the finding and assessment of damages. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 3 (part).)

§ 55.304. Suits Against the District

If a district is sued for any property occupied by it or taken by it for any of its purposes or if sued for damages to the property, the court in which the suit is pending may determine all matters in dispute between the parties. On petition or cross-bill of the defendant, the court may consider condemnation of the property. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 5.)

[Sections 55.305 to 55.330 reserved for expansion]

SUBCHAPTER G. DISTRICT SURVEY

Section 55.331. District Engineer

After the district is established and the members of the board have qualified, the board may employ an engineer for the district. (R.S. Art. 7686, sen. 1 (part), as amended.)

§ 55.332. Duties of the Engineer

The engineer shall make a complete survey of the land included in the district and make a map and profile of the canals, laterals, reservoirs, dams, and pumping sites located in the district and extending beyond the limits of the district. (R.S. Art. 7686, sen. 1 (part), as amended.)

§ 55.333. Maps

(a) The map shall show the name and number of each survey and the area in the district in number of acres. (R.S. Art. 7686, sen. 1 (part), as amended.)

(b) The map shall show the relation that each canal and lateral bears to each tract of land through which it passes and the shapes into which it divides each tract. If the canal or lateral cuts off any less than 20 acres from any tract, the map shall show the number of acres in the whole tract and the shape of the small tract and its relationship to the canal or lateral.

(c) The map shall show how much and what part of each tract can be irrigated by the canal or lateral.

(d) The profile map shall also show in detail the number of cubic yards which need to be excavated or moved to make the reservoir, canal, or lateral, and the specifications for other works necessary to the construction of improvements proposed for the district, and the estimated cost of each. (R.S. Art. 7687, sen. 1, 2 (part).)

§ 55.334. Adopting Old Surveys

(a) The engineer may adopt any surveys made in the past by any person who has applied for or appropriated any water for irrigation under state law.

(b) The engineer also may adopt any surveys for canals, laterals, reservoirs, dams, or pumping sites shown on these maps or plats or may adopt other maps, plats, and surveys which he is satisfied are correct. (R.S. Art. 7686, sen. 2, as amended.)

§ 55.335. Additional Improvements

If additional improvements of canals, ditches, laterals, reservoirs, or pumping plants are to be constructed, the report shall contain the detailed information with reference to these additional improvements. (R. S. Art. 7687, sen. 3 (part).)

§ 55.336. Existing Improvements

If the district contains any pumping plants, canals, dams, ditches, or reservoirs which the district is planning to acquire or purchase, the map or plat and the estimates required in this subchapter shall show these improvements and the price or probable price at which they may be acquired or purchased. (R.S. Art. 7687, sen. 3 (part).)

§ 55.337. Signing and Filing Engineer's Report, Map, and Profile

After the map, profile, specifications, and estimates are completed, the engineer shall sign them and file them with the secretary of the board. (R.S. Art. 7687, sen. 2 (part).)

§ 55.338. Maps and Data Unnecessary under Contract with United States

None of the maps and data prescribed by this subchapter are required under a contract with the United States except for maps and data needed to make assessments and levies. (R.S. Art. 7687, sen. 4.)

[Sections 55.339 to 55.350 reserved for expansion]

SUBCHAPTER H. WATER ASSESSMENTS**Section 55.351. Statement Estimating Water Requirements and Payment of Charge**

Each person desiring to receive water at any time during the year shall furnish the secretary of the board a written statement of the acreage he intends to irrigate and the different crops he intends to plant with the acreage of each crop. At the time the acreage estimate is furnished to the secretary, each person applying for water shall pay the portion of the water charge or assessment set by the board for immediate payment. If any person applying for water from the district does not furnish the statement of estimated acreage or does not pay the part of the water charge or assessment set by the board before the date for fixing the assessment, the district is not obligated to furnish water to that person during that year. (R.S. Art. 7751.)

§ 55.352. Assessments for Maintenance and Operating Expenses

The board, on or as soon as practicable after a date fixed by standing order of the board, shall estimate the expenses of maintaining and operating the irrigation system for the next 12 months. (R.S. Art. 7752, sen. 1, as amended.)

§ 55.353. Methods for Determining Maintenance and Operating Expenses

The board may make assessments for maintenance and operating expenses as provided in this subchapter on the basis of the quantity of water used. (R.S. Art. 7776, sen. 1 (part).)

§ 55.354. Distribution of Assessment

(a) Not less than one-third nor more than two-thirds of the estimated maintenance and operating expenses shall be paid by assessment against all land in the district to which the district can furnish water through its irrigation system or through an extension of its irrigation system. The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated. The board shall determine from year to year the proportionate amount of the expenses which will be borne by water users under this subsection. (R.S. Art. 7752, sen. 2 (part), as amended.)

(b) The remainder of the estimated expenses shall be paid by assessments against persons in the district who use or who make application to use water. The board shall prorate the remainder as equitably as possible among the applicants for water and may consider the acreage each applicant will plant, the crop he will grow, and the amount of water per acre he will use. All persons using water to plant the same crop will pay the same price per acre for the water. (R.S. Art. 7752, sen. 2 (part), 3, as amended.)

§ 55.355. Notice of Assessments

(a) Public notice of all assessments shall be given by posting printed notices of the assessment in at least three public places in the district. (R.S. Art. 7753, sen. 2 (part).)

(b) Printed notices shall be mailed to each landowner at the address which the landowner shall furnish to the board. (R.S. Art. 7753, sen. 2 (part).)

(c) The notice shall be posted in a public place and mailed to the landowner five days before the assessment is due, and notice of special assessments shall be given within 10 days after the assessment is levied. (R.S. Art. 7753, sen. 3.)

§ 55.356. Payment of Assessments

All assessments shall be paid in installments at the times fixed by the board. If a crop for which water was furnished by the district is harvested before the due date of any installment payment, the entire unpaid assessment becomes due at once and shall be paid within 10 days after the crop is harvested and before the crop is removed from the county or counties in which it was grown. (R.S. Art. 7752, sen. 4, as amended.)

§ 55.357. Collection of Assessments by Tax Assessor and Collector

(a) Under the direction of the board, the assessor and collector of taxes, or other person designated by the board, shall collect all assessments for maintenance and operating expenses made under the provisions of this subchapter. (R.S. Art. 7755, sen. 1 (part).)

(b) The assessor and collector of taxes shall give bond in an amount determined by the board, conditioned upon the faithful performance of his duties and accounting for all money collected. (R.S. Art. 7755, sen. 1 (part).)

(c) The assessor and collector of taxes shall keep an account of all money collected and shall deposit the money as collected in the district depository. He shall file with the secretary of the board a statement of all money collected once each week. He shall use duplicate receipt books, give a receipt for each collection made, and retain in the book a copy of each receipt, which shall be kept as a record of the district. (R.S. Art. 7755, sen. 2, 3.)

§ 55.358. Contracts with Person Using Water

(a) The board may require each person who desires to use water during the year to enter into a contract with the district which states the acreage to be watered, the crops to be planted, the amount to be paid for the water, and the terms of payment.

(b) The contract is not a waiver of the lien given to the district under Section 55.359 of this code against the crops of a person using water for the service furnished to him.

(c) If a person irrigates more land than his contract specifies, he shall pay for the additional service under the provisions of this subchapter. (R.S. Art. 7752, sen. 6 (part), 7, 8, as amended.)

(d) The directors also may require a person using water to execute a negotiable note or notes for all or part of the amount owed under the contract. (R.S. Art. 7752, sen. 6 (part), as amended.)

§ 55.359. Lien against Crops

(a) The district shall have a first lien, superior to all other liens, against all crops grown on each tract of land in the district to secure the payment of the assessments, interest, and collection or attorney's fees. (R.S. Art. 7752, sen. 10 (part), 12 (part), as amended.)

(b) When the district obtains a water supply under contract with the United States, the board may, by resolution entered in their minutes and with the consent of the secretary of the interior, waive the lien in whole or in part. (R.S. Art. 7752, sen. 11, as amended.)

§ 55.360. List of Delinquent Assessments

Within 10 days after any assessment is due, the board shall post in a public place in the district a list of all persons who are delinquent in paying their assessments and shall keep posted a correct list of all delinquent assessments. If persons who owe assessments have executed notes and contracts as provided in Section 55.358 of this code, they shall not be placed on the delinquent list until after the maturity of the notes and contracts. (R.S. Art. 7752, sen. 16, as amended.)

§ 55.361. Water Service Discontinued

If a landowner shall fail or refuse to pay any water assessment when due, his water supply shall be cut off, and no water shall be furnished to the land until all back assessments are fully paid. The discontinuance of water service is binding on all persons who own or acquire any interest in land for which assessments are due. (R.S. Art. 7752, sen. 14 (part), 15, as amended.)

§ 55.362. Suits for Delinquent Assessments

Suits for delinquent water assessments may be brought either in the county in which the irrigation district is located or in the county in which the defendant resides. All landowners are personally liable for all assessments provided in this subchapter. (R.S. Art. 7752, sen. 13, 14 (part), as amended.)

§ 55.363. Interest and Collection Fees

(a) All assessments shall bear interest from the date payment is due at the rate of 10 percent a year. (R.S. Art. 7752, sen. 10 (part), as amended.)

(b) If suit is filed to foreclose a lien on crops or if a delinquent assessment is collected by any legal proceeding, an additional amount of 10 percent on unpaid principal and interest shall be added as collection or attorney's fees. (R.S. Art. 7752, sen. 12 (part), as amended.)

§ 55.364. Rights of the United States

If the board enters into a contract with the United States, the remedies in this subchapter available to the district also shall apply to enforce payment of charges due to the United States. The Reclamation Extension Act, approved August 13, 1914, and as amended, and all other federal reclamation laws apply. The directors shall distribute and apportion all water acquired by the district under a contract with the United States in accordance with acts of Congress, rules and regulations of the secretary of the interior, and provisions of the contract. (R.S. Art. 7752, sen. 17, 18, 19, as amended.)

§ 55.365. Surplus Assessments

If assessments made under this subchapter are more than sufficient to pay the necessary expenses of the district, the balance shall be carried over to the next year. (R.S. Art. 7753, sen. 1 (part).)

§ 55.366. Insufficient Assessments

If the assessments made under this subchapter are not sufficient to pay the necessary expenses of the district, the unpaid balance shall be assessed, pro rata, in accordance with the assessments made for the current year. The additional assessments shall be paid under the same conditions and penalties within 30 days from the date of assessment. (R.S. Art. 7753, sen. 1 (part).)

§ 55.367. Land not Subject to Assessments

If a district fails to furnish sufficient water to irrigate land in the district for two years after its organization, the nonirrigated land is relieved of all assessments and charges except taxes until the district constructs the necessary canals and furnishes the necessary water to irrigate the land. (R.S. Art. 7768.)

§ 55.368. Loans for Maintenance and Operating Expenses

The board may borrow money to pay maintenance and operating expenses at an interest rate of not more than 10 percent a year and may pledge as security any of its notes or contracts with water users or accounts against them. (R.S. Art. 7752, sen. 9, as amended.)

§ 55.369. Fixed Charges for Maintenance Expenses

If maintenance charges are based on the quantity of water used, a fixed charge may be made on all land or water connections entitled to receive and use water. An additional charge may be made, or a graduated scale adopted, for the use of more water than that covered by the minimum charge. The board may install proper measuring devices. (R.S. Art. 7776, sen. 1 (part), 2.)

§ 55.370. Charge to Cities and Towns

If a district includes a city or town or contracts with a city or town to supply water to it, the charge for the use of water and the time and manner of payment shall be determined by a standing order of the board. (R.S. Art. 7777.)

§ 55.371. Authority to Determine Rules and Regulations

The directors may adopt, alter, and rescind rules, regulations, and standing and temporary orders which do not conflict with the provisions of this chapter and which govern:

- (1) methods, terms and conditions of water service;
- (2) applications for water;
- (3) assessments for maintenance and operation;
- (4) payment and the enforcement of payment of the assessments;
- (5) furnishing of water to persons who did not apply for it before the date of assessment; and
- (6) furnishing of water to persons who wish to take water for irrigation in excess of their original applications or for use on land not covered by their original applications. (R.S. Art. 7752, sen. 5, as amended.)

[Sections 55.372 to 55.400 reserved for expansion]

SUBCHAPTER I. SUPPLYING WATER TO MILITARY CAMPS**Section 55.401. Authority of Districts with Military Base to Issue Bonds**

Any district operating under Article XVI, Section 59, of the Texas Constitution, which contains all or part of a United States military camp or base may issue negotiable revenue bonds to provide funds for acquiring or constructing filtration and pumping equipment, pipelines, and other facilities for supplying water to military camps or bases. (47th Legis., Ch. 510, Sec. 1, and Sec. 2, sen. 1 (part).)

§ 55.402. Bond Election

The district may issue negotiable revenue bonds with a total par value of not more than \$100,000 without the necessity of holding an election, but it may not issue bonds with a total par value of more than \$100,000 unless the bond issue is approved at an election held under the law governing bond elections. (47th Legis., Ch. 510, Sec. 2, sen. 1 (part), 2.)

§ 55.403. Interest Rate and Maturity Date

Bonds issued under this subchapter shall mature not more than five years after the date of issuance. (47th Legis., Ch. 510, Sec. 3.)

§ 55.404. Security for Bonds

(a) Bonds issued under this subchapter may be secured by all or part of the net revenue to be received from a contract for the sale of water by the district to the United States for use at military camps or bases and from all renewals, extensions, or substitutions of the contract. (47th Legis., Ch. 510, Sec. 4, sen. 1.)

(b) In addition, the bonds may be secured by a deed of trust lien on the equipment, facilities, and property acquired or constructed with the funds from the sale of the bonds. (47th Legis., Ch. 510, Sec. 4, sen. 2.)

§ 55.405. Approval; Registration

After bonds are authorized under this subchapter but before they are issued, the bonds, the resolution of the board authorizing the bonds to be issued, and other certificates and records relating to the issuance of the bonds shall be submitted to the Attorney General of Texas for his examination. The attorney general shall approve the bonds if they are issued in accordance with the provisions of this subchapter and the constitution, and the bonds shall be registered with the comptroller. (47th Legis., Ch. 510, Sec. 5, sen. 1, 2.)

§ 55.406. Validity of Bonds

After bonds are approved by the attorney general and registered with the comptroller, they shall be held valid and binding in any action, suit, or proceeding in which their validity is questioned. In any action brought to enforce collection of the bonds, the certificate of approval by the attorney general, or a certified copy of the certificate, shall be admitted as evidence of the validity of the bonds. The only defense which can be offered against the validity of the bonds is forgery or fraud. (47th Legis., Ch. 310, Sec. 5, sen. 3, 4, 5.)

§ 55.407. Payment of Bonds

The holder of bonds issued under the provisions of this subchapter is not entitled to payment of the bonds from funds derived from taxes levied on property in the district. (47th Legis., Ch. 510, Sec. 8.)

§ 55.408. Advertising for Bids

A contract for constructing or acquiring filtration and pumping equipment, pipelines, or other facilities to supply water to military camps or

bases may be awarded only after advertising for bids for a period of time to be determined by the board. The advertisement for bids shall be published in a newspaper of general circulation in the district at least one time not less than 10 days before awarding the contract. (47th Legis., Ch. 510, Sec. 7.)

[Sections 55.409 to 55.420 reserved for expansion]

SUBCHAPTER J. GENERAL FISCAL PROVISIONS

Section 55.421. Construction and Maintenance Fund

The expenses, debts, and obligations incurred in creating, establishing, and maintaining the district shall be paid from the construction and maintenance fund. The construction and maintenance fund shall consist of money received by the district from the sale of bonds or from other sources provided by this chapter. (R.S. Art. 7711 (part).)

§ 55.422. Maintenance and Operating Fund

(a) The district shall create a maintenance and operating fund which shall consist of any money collected by assessment or other methods for the maintenance and operation of property owned by the district and for temporary rent owed to the United States.

(b) The district shall pay all operating expenses and any balance due on construction work, extensions, and improvements from the maintenance and operating fund with warrants executed in the manner provided in this chapter. (R.S. Art. 7714 (part).)

(c) If the district intends to enter into a contract with the United States for the construction of the irrigation system, the expenses, debts, and obligations may be paid from the maintenance and operating fund. (R.S. Art. 7711 (part).)

§ 55.423. District Vouchers

Except as provided in Section 55.112 of this code, vouchers issued by the district shall include a reference to the book and page number which authorize the expenditure and shall be signed by at least four members of the board. The vouchers shall be issued from a regular duplicate book containing a duplicate of the voucher, which shall be kept by the district. (R.S. Art. 7761, sen. 2, 3.)

§ 55.424. District Depository

(a) The board shall select a depository for the district in the manner provided for selection of a county depository, and the board, in selecting the depository, shall act in the same capacity and perform the same duties as provided by law for the county judge and county commissioners in selecting a county depository.

(b) The duties of the district depository shall be the same as provided by law for county depositories. (R.S. Art. 7757, sen. 1, 2, 3 (part).)

§ 55.425. Selecting a Bank as Depository in which a District Director Has an Interest

(a) If the highest and best bidder to become the district depository is a bank in which a district director is a stockholder or a director, the remaining members of the board, if they constitute a majority, may select the bank as the district depository and approve the bond.

(b) Before the order of the board selecting the bank as the depository and approving the bond is effective, a copy of the order must be filed with the county judge in the county in which the district is located.

(c) If the county judge fails to approve the depository selected or the bond, the bank will not become the district depository, and new bids shall be requested and another bank selected as district depository. (R.S. 7757, sen. 3 (part).)

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, § 5, eff. May 31, 1971.

§ 55.426. Report of the District Depository

(a) The district depository shall make a report each month of money it receives and pays out on behalf of the district. This report together with the vouchers shall be filed in the district's records which are in the depository's vault, and a copy of the report shall be furnished to the district's board.

(b) The report shall be available for inspection by taxpayers and residents of the district.

(c) The records shall be kept as property of the district and shall be delivered to the successor of the depository. (R.S. Art. 7758.)

§ 55.427. District Records and Accounts

The board shall keep a record of its meetings and proceedings and shall have a complete book of accounts kept for the district. (R.S. Art. 7756 (part); R.S. Art. 7761, sen. 4 (part).)

§ 55.428. Protection and Custody of Records and Documents

The board shall keep the contracts, records and notices, duplicate vouchers, duplicate receipts, and accounts and records of the district in a fireproof vault or safe, and shall deliver them to their successors in office. These records and other documents are the property of the district. (R.S. Art. 7756 (part).)

§ 55.429. District Audit

(a) Except as provided in Subsection (c) of this section, on September 1 of each year the board shall select a competent auditor for the district who shall file an audit report by November 1 of each year.

(b) The auditor shall examine the accounts, books, and reports of the depository, the assessor and collector, and the board and shall include a full report of his findings in the audit report. A copy of the report shall be filed with the depository, the board and the county clerk of the county in which the district is located.

(c) In districts which adopt the calendar year as the fiscal year, the auditor shall be appointed by January 15 following the end of the year and his report shall cover the preceding calendar year. (R.S. Art. 7761, sen. 4 (part), 5; 39th Legis., Ch. 152, Sec. 6 (part).)

§ 55.430. Adopting the Calendar Year as the Fiscal Year

The board, by an order entered in its minutes, may adopt the calendar year as the fiscal year, and in districts adopting the calendar year, the board's annual report shall cover the calendar year, and shall be filed by January 30th of the succeeding year. (39th Legis., Ch. 152, Sec. 6 (part).)

[Sections 55.431 to 55.450 reserved for expansion]

SUBCHAPTER K. BORROWING MONEY

Section 55.451. District May Incur Debt for District Purposes

(a) The district may incur debt evidenced by contract, notes, warrants, or bonds to pay any debt or obligation incurred for any lawful purpose.

- (b) The purposes for which debt may be incurred, include:
- (1) purchasing, constructing, securing, or acquiring any reservoir, rights-of-way, water rights, and any property, plants, and improvements;
 - (2) carrying out any of the purposes for which the district was created;
 - (3) maintaining and operating property, plants, and improvements of the district; and
 - (4) constructing repairs, extensions, and other improvements on the property. (R.S. Art. 7622, sen. 3 (part); 43rd Legis., Ch. 131, Sec. 1.)

§ 55.452. Adopting Method for Payment of Debts

- (a) When a district incurs a debt or obligation, it shall provide for payment of the debt or obligation by levying, assessing, and collecting either a general ad valorem tax or a tax on a benefit basis.
- (b) Any district which has previously issued bonds or obligations payable on either basis may adopt a different basis of taxation in the creation of an additional debt or obligation.
- (c) Each debt or obligation shall be paid in the manner provided at the time it was incurred. (43rd Legis., Ch. 131, Sec. 2, sen. 1, 2, 3, 4.)

§ 55.453. Election

- (a) Before any debt is incurred under this subchapter, the district shall submit to the voters of the district the proposition of whether or not the debt should be created. The proposition shall also state the method of taxation to be used to pay principal and interest on the debts.
- (b) Notice of the election and the conduct of the election shall be in the manner provided by law for holding elections in the district.
- (c) The proposition is adopted if it is approved by a majority of the persons voting in the election. (43rd Legis., Ch. 131, Sec. 4.)

§ 55.454. Incurring Debt without Voter Approval

None of the provisions of this subchapter shall prevent the board from creating any debt or obligation without voter approval if the debt or obligation is created to defray ordinary maintenance and operating expenses or if the debt or obligation is to be retired from current revenues. (43rd Legis., Ch. 131, Sec. 2, sen. 5.)

§ 55.455. Taxes on Uniform Basis

- (a) Any district which has the principal function of furnishing water for irrigation in the district may provide for the payment of principal and interest on any debts or obligations by levying taxes on land in the district on an equal or uniform basis with an equal charge per acre on each acre of land to be irrigated.
- (b) The tax collector shall prepare a special tax roll showing each tract of land in the district, the number of acres in each tract, the total assessment of benefits on each tract, and the amount to be paid each year on each tract, and the roll shall be prepared or amended annually. Each owner shall make a rendition of his property to the tax collector.
- (c) The tax roll shall be examined, corrected, and approved by the board of equalization of the district.
- (d) The property shall be rendered and assessed for taxation and the tax roll prepared at the time and in the manner provided by law. The valuation fixed on property shall be the assessment charge against each acre of land at the time the debt or obligation is incurred. (43rd Legis., Ch. 131, Sec. 3.)

§ 55.456. Obtaining Loan when Bonds Cannot Be Sold

If the district has any bonds which were issued under the provisions of this code but which cannot, in the opinion of the board, be sold on terms which are advantageous to the district, the district may obtain a loan in an amount of not more than the amount of the unsold bonds. The money may be used for any of the purposes for which the bonds were issued, and the bonds may be pledged as a guarantee or assurance that the loan will be paid. The amount of bonds pledged may not exceed the amount of the loan by more than 15 percent. (43rd Legis., Ch. 131, Sec. 8.)

§ 55.457. Using Revenue from Sale of Water, Power, and Other Services to Pay Debts

(a) The district may fix charges for the use and sale of water, power, and other services to pay debts and to accomplish other lawful purposes of the district.

(b) The district may borrow money for any purpose in the manner provided in this subchapter and pledge for payment of these debts, income and revenue from the sale of water, power, and other services sufficient in amount to pay principal, interest, and other charges which may accrue. (43rd Legis., Ch. 131, Sec. 6.)

§ 55.458. Loan Fund

(a) The board may pay or contract to pay on any bonds which it has sold or pledged, in addition to taxes, other funds derived from:

- (1) water charges for use of water in the district;
- (2) sale or supply of water to any city, town, municipal corporation, district, or land or user of water outside the boundaries of the district;
- (3) sale of water to any commercial or industrial enterprise;
- (4) sale of hydroelectric power; or
- (5) any or all of these sources of revenue.

(b) The board shall fix the amount to be derived from these sources for this purpose and shall enforce and collect it in the same manner provided to collect charges or assessments for maintenance and operation. All liens and remedies provided by law to secure and enforce the collection of charges and assessments for maintenance and operation of the district are applicable to securing and enforcing the collection of these funds.

(c) Money collected under this section shall be kept in a separate fund called the "loan fund" and shall be used only for the purpose of paying the principal and interest on the bonds for as long as the bonds remain unpaid.

(d) The charge created by this section is an additional and distinct charge and a source of income of the district over and above its income for maintenance and operation and other purposes.

(e) After the loan fund is created and pledged, the action of the board in fixing the amount of the charge and in fixing the total annual charges for maintenance and operation may not be reviewed by the Texas Water Rights Commission regardless of any law to the contrary. (43rd Legis., Ch. 131, Sec. 9.)

[Sections 55.459 to 55.490 reserved for expansion]

SUBCHAPTER L. ISSUANCE OF BONDS

Section 55.491. Bond Election

After the district is created, the members of the board are qualified, the maps, profiles, specifications, and estimate are filed, and after the as-

essor and collector has made and returned the assessment roll, the board may order a bond election to be held in the district at the earliest possible legal time. (R.S. Art. 7688, sen. 1 (part).)

§ 55.492. Content of Notice

- (a) The notice of the election shall include:
- (1) the maximum amount of bonds to be issued;
 - (2) the maximum interest rate on the bonds;
 - (3) the maximum maturity date of the bonds;
 - (4) a summary of the engineer's estimate of the cost of constructing proposed improvements and purchasing existing improvements with additions;
 - (5) a substantial statement of the proposition; and
 - (6) the time and place or places for holding the election.

(b) If the election is for the purpose of voting on a contract with the United States, the notice shall include the maximum amount of money to be paid for construction purposes exclusive of penalties and interest. (R.S. Art. 7689, sen. 1 (part); R.S. Art. 7690, sen. 1 (part), 2, 3.)

§ 55.493. Publication of Notice

The secretary of the board, on order of the board, shall post notice of the bond election at the courthouse door in the county in which the district is located and at four public places in the district for at least 20 days before the day of the election. Also, the secretary shall publish the notice in the manner provided in Section 55.609 of this code. (R.S. Art. 7689, sen. 1 (part), 2, 3.)

§ 55.494. Conduct of Bond Election

The board shall select a polling place in each voting precinct or part of a voting precinct located in the district and shall appoint two judges, one of whom shall be the presiding judge, and two clerks for each polling place designated in the order. (R.S. Art. 7691, sen. 3 (part).)

§ 55.495. Ballots

(a) The board shall provide one and one-half times as many ballots for the election as there are qualified property taxpaying electors in the district as shown on the county tax rolls.

(b) The ballots shall be printed to provide for voting for or against the following proposition: "The issuance of bonds and the levy of a tax to pay for the bonds." This is the only proposition which may appear on the ballot.

(c) If the election is for the purpose of voting on a contract with the United States, the ballots shall be printed to provide for voting for or against the following proposition: "The contract with the United States and levy of taxes to make payments under the contract." This is the only proposition which may appear on the ballot. (R.S. Art. 7691, sen. 3 (part), 4, 5.)

§ 55.496. Returns; Result

(a) Immediately after the election, the presiding judge of each polling place shall transmit to the secretary of the district the result of the election in the manner provided by law for general elections. The secretary shall keep the results in a safe place and deliver them together with the returns from each polling place to the board.

(b) At a regular meeting or special meeting the board shall canvass the returns and declare the result of the election.

(c) If the canvass of the returns shows that the bond issue or the contract with the United States and the tax levy were approved, the board

shall declare the result to be in favor of the proposition and shall enter the results in the minutes. (R.S. Art. 7693, sen. 1, 3.)

§ 55.497. Necessary Vote

(a) In a district operating under the authority of Article III, Section 52, of the Texas Constitution, a two-thirds vote of persons voting in the election is required to adopt a proposition to issue bonds or to enter into a contract with the United States.

(b) In a district operating under the authority of Article XVI, Section 59, of the Texas Constitution, a majority vote of persons voting in the election is required to adopt a proposition to issue bonds or to enter into a contract with the United States. (R.S. Art. 7693, sen. 2.)

§ 55.498. Ordering Issuance of Bonds

After the vote is canvassed and a favorable result is declared, the board shall make and enter an order authorizing the issuance of bonds or the execution of a contract with the United States. (R.S. Art. 7694 (part).)

§ 55.499. Amount of Bonds

The bonds shall be sufficient in amount to pay for the proposed improvements together with necessary incidental expenses connected with the improvements, but the amount shall not be more than the amount specified in the order and notice of election. The total amount of the bonds shall include:

- (1) the amount of the engineer's estimate;
- (2) incidental expenses;
- (3) organization expenses; and
- (4) cost of additional work caused by any change or modification made by the directors. (R.S. Art. 7689, sen. 1 (part); R.S. Art. 7694 (part).)

§ 55.500. Limitation of Indebtedness

In districts organized under Article III, Section 52, of the Texas Constitution, the amount of bonds or the amount of the contract indebtedness with the United States may not be more than one-fourth of the actual assessed value of the real property in the district as shown by an assessment made for this purpose or by the last annual assessment made under this chapter. This limitation does not apply to districts operating under the authority of Article XVI, Section 59, of the Texas Constitution. (R.S. Art. 7696.)

§ 55.501. Special Interest Procedure

(a) The maximum amount of bonds issued by a district may include a sufficient sum to pay the first one, two, or three years' interest to accrue on the bonds, and no taxes shall be levied against property located in the district for this period except for a sufficient tax to pay notes provided for in Section 55.038 of this code.

(b) The board may designate the period of interest to begin either with the date of the bonds fixed in the order which authorizes their issuance or from the date or dates of the actual sale, issuance, and delivery of the bonds or any installments.

(c) Any money left in the interest fund at the end of the designated period still may be used to pay interest on the bonds. (R.S. Art. 7695, sen. 1, 2, as amended.)

§ 55.502. Formal Requirements of Bonds

(a) The board shall issue bonds in the name of the district, and the president shall sign the bonds, the secretary shall attest to them, and the district's seal shall be impressed on them.

(b) The bonds shall be issued in denominations of not less than \$100 nor more than \$1,000 each.

(c) The bonds shall be payable annually or semiannually and shall mature not more than 40 years after they are issued.

(d) The bonds may be issued to mature in serial form at any date which does not come later than the date specified in the notice of election and may bear any rate of interest which is not more than the rate of interest specified in the notice.

(e) The terms of the bonds shall include the time, place, manner, and conditions of payment and the interest rate which are ordered by the board. (R.S. Art. 7690, sen. 1 (part); R.S. Art. 7700.)

§ 55.503. Texas Water Rights Commission to Investigate and Report on Districts Issuing Bonds

(a) The Texas Water Rights Commission shall investigate and report on the organization and feasibility of all districts issuing bonds under Texas law.

(b) Any district which desires to issue bonds shall submit to the commission a written application for investigation, together with a copy of the engineer's report and a copy of the data, profiles, maps, plans, and specifications prepared in connection with the report.

(c) The commission shall examine these documents and shall visit the project and carefully inspect it, and may request and shall be supplied with additional data and information necessary to a reasonable and careful investigation of the project and proposed improvements.

(d) The commission shall file in its office written suggestions for changes and improvements and furnish a copy to the board of directors of the district.

(e) If the commission finally approves or refuses to approve the project or the issuance of the bonds for any improvement, it shall make a full written report, file the report in its office, and furnish a copy of the report to the board of directors of the district. (R.S. Art. 7799.)

§ 55.504. Suit to Determine Validity of Bonds or Contract

(a) Before any bonds are offered for sale, the district shall bring suit in any district court within the judicial district in which the district is located or in any district court in Travis County to determine the validity of the bonds. On request of the secretary of interior, any district entering into a contract with the United States shall bring suit in one of the same courts to determine the validity of the contract.

(b) The action shall be in the nature of a proceeding in rem, and jurisdiction over all interested parties may be obtained by publishing notice once a week for at least two consecutive weeks in a newspaper with general circulation in the county in which the district is located. If there is no newspaper published in the county, the notice shall be published in the county nearest to the district in which a newspaper is published. (R.S. Art. 7703, sen. 1, 2.)

§ 55.505. Notice to Attorney General

(a) Notice of a validation suit shall be served on the attorney general in the manner provided for serving a notice in civil suits. (R.S. Art. 7703, sen. 3.)

(b) The attorney general may waive service if he is furnished a full transcript of the proceedings held in the formation of the district and held in connection with the issuance of the bonds or the authorization of the contract with the United States and is furnished a copy of the contract. (R.S. Art. 7704.)

§ 55.506. Attorney General to Examine Proceedings and File Answer Tendering Issue

The attorney general shall make a careful examination of the district's organizational proceedings and proceedings held in connection with the issuance of bonds or the authorization of a contract with the United States and shall require any further evidence and make any further investigation he considers necessary. The attorney general shall then file an answer tendering the issue of whether or not the bonds are legal and binding obligations of the district or whether or not the contract with the United States is legal and binding on the district. This issue shall be tried and determined by the court and a judgment entered on the finding. (R.S. Art. 7705, sen. 1, 2, 3.)

§ 55.507. Right of Persons to Intervene and Participate in Suit

At the trial of a validation suit the court may permit persons having an interest in the issues to be determined to intervene and participate in the trial of the issues. (R.S. Art. 7705, sen. 4.)

§ 55.508. Suits to Have Preference

Suits brought under the provisions of this subchapter have preference over all other actions so that the matters involved may have a speedy determination. (R.S. Art. 7705, sen. 5.)

§ 55.509. Judgment Rendered

(a) If the judgment of the court in a validation suit is against the district, the district may accept the judgment and may correct the error pointed out in the proceedings in the manner directed by the court.

(b) After the corrections are made, the judgment of the court shall be rendered showing that the corrections have been made and that the bonds or the contract is a binding obligation on the district.

(c) The final judgment, when it is entered, is res judicata in any case arising in connection with the bonds or their interest or in connection with the collection of money required under the contract with the United States and in all matters relating to the validity of the organization of the district, the district's bonds, or the contract with the United States. (R.S. Art. 7706.)

§ 55.510. Court's Decree

(a) After the district court enters a final judgment in a validation suit, the clerk of the court shall make a certified copy of the decree which shall be a part of the orders and decree connected with the election.

(b) The court's decree shall be filed with the comptroller and he shall record the decree in a book kept for that purpose.

(c) The certified copy of the decree or a certified copy of the record made by the comptroller shall be received as evidence in any litigation which may affect the validity of the bonds or contract with the United States and shall be conclusive evidence of the validity. (R.S. Art. 7707.)

§§ 55.511, 55.512. Repealed by Acts 1971, 62nd Leg., p. 1769, ch. 518, § 10, eff. May 31, 1971

Section 55.511 provided for registration of district bonds by the comptroller.

Section 55.512 required the county in which the district is located to provide a bond book to be kept by the clerk.

§ 55.513. County Clerk's Fees

The county clerk is entitled to receive:

- (1) for registering the bonds, 10 cents for each bond which is registered;

- (2) for entering the payment of a bond, 10 cents; and
- (3) for recording district instruments required to be recorded and for which no fee is provided, the same fees provided by law for recording deeds. (R.S. Art. 7771.)

§ 55.514. Sale of Bonds

(a) After the bonds are issued and registered by the comptroller, the board shall offer the bonds for sale and shall sell them on the best terms and for the best possible price.

(b) After all the bonds are sold, the board shall pay to the district depository all money received from the sale.

(c) The board may exchange the bonds for property to be acquired by purchase under contract or in payment of the contract price for work to be done for the use and benefit of the district. (R.S. Art. 7710.)

§ 55.515. Emergency Loans and Interim Bonds

(a) The district may create emergency loans and issue interim bonds for the purposes, in the manner, and under the restrictions and limitations provided in Sections 51.444–51.449 of this code.

(b) It is the purpose of this section to confer on the district the same power and authority with respect to emergency loans and issuance of interim bonds as that conferred by law on water control and improvement districts. (41st Legis., 2nd C.S., G.L., Ch. 69, Sec. 1.)

§ 55.516. Tax Levy

(a) After bonds have been voted, the board shall levy a tax on all property in the district sufficient to pay the interest on the bonds together with an additional amount to be placed in the sinking fund to discharge and redeem the bonds at maturity, and the board shall annually levy or have assessed and collected taxes on all property in the district sufficient to pay for the expenses for assessing and collecting the taxes.

(b) The board may issue the bonds in serial form or to be paid in installments.

(c) The tax levy shall be sufficient to pay the interest on the bonds, to meet the proportional amount of the principal of the next maturing series of the bonds, and to pay expenses of assessing and collecting the taxes for the year.

(d) If a contract is entered into with the United States, the board shall levy a tax sufficient to meet all installments as they are due and to pay interest. The directors shall make an annual levy until the contracts and obligations are discharged. (R.S. Art. 7712.)

§ 55.517. Adjustment of Tax Levy

The tax which is levied in connection with the original bond issue shall remain in force for that purpose until a new levy is made. The board may, from time to time, increase or diminish the tax for the purpose of adjusting the tax to the taxable values of taxable property in the district and the amount to be collected, and the increase or decrease in the tax shall be sufficient to provide enough money in the interest and sinking fund to make annual payments on outstanding bonds. (R.S. Art. 7769.)

§ 55.518. Interest and Sinking Fund

(a) The district shall have an interest and sinking fund which shall consist of all taxes collected under the provisions of this chapter for this fund.

- (b) Money in the interest and sinking fund shall be paid out only:
- (1) to satisfy and discharge interest on the bonds;
 - (2) to pay the bonds;

- (3) to defray the expense of assessing and collecting the tax; and
- (4) to pay principal and interest due to the United States under a contract with the district under which bonds have not been deposited with the United States.

(c) The board shall order money from the fund to be paid out by warrants drawn as provided in this chapter. When funds are paid out, the depository shall receive and cancel the interest coupon or bond paid, and the interest coupon or bond shall be delivered to the board to be cancelled and destroyed. (R.S. Art. 7713.)

§ 55.519. Investment of Sinking Funds

The board may invest sinking funds of the district in bonds of the United States, the State of Texas, any county, any incorporated city or town, any independent school district, or any school district authorized to issue bonds, or they may invest the funds in irrigation or water improvement bonds. The board may not purchase any bonds which under their terms would mature subsequent to the maturity date of bonds for which the sinking fund was created. (R.S. Art. 7770.)

§ 55.520. Refunding Bonds

(a) The board of a district which has issued bonds under the provisions of this chapter, by resolution, may issue refunding bonds to replace the original bonds. The refunding bonds may be issued in any amount, in any denomination, and for any period of maturity and may bear any rate of interest provided in the board's resolution.

(b) The refunding bonds shall be issued subject to the limitations provided in this subchapter for the issuance of bonds.

(c) The refunding bonds may be exchanged for the original bonds at the original bonds' face value or at a discount, or the refunding bonds may be sold and the net proceeds applied to the purchase of the original bonds at face value or at a discount. (R.S. Art. 7773, sen. 1, 2, 6 (part).)

§ 55.521. Registering Refunding Bonds

(a) The comptroller may not register any refunding bonds until the original bonds for which the refunding bonds are issued are presented to him for cancellation or until a contract for the purchase of a corresponding number of the original bonds has been entered into and filed with the comptroller.

(b) After the refunding bonds are registered, the comptroller shall keep them in his possession until the original bonds are surrendered to him and cancelled by him, at which time he shall deliver the new bonds to the proper party or parties.

(c) The original bonds may be presented for payment in installments and an equal amount of refunding bonds registered and delivered as provided in this subchapter. (R.S. Art. 7773, sen. 3, 4.)

§ 55.522. Issuing Refunding Bonds for the Same Amount and with the Same Maturity Date as the Original Bonds

(a) Refunding bonds for the same amount and with the same maturity date as the bonds which they are to replace may be authorized by resolution of the board and issued without an election to approve them.

(b) These refunding bonds shall be registered by the comptroller in the manner provided in Section 55.521 of this code after a copy of the resolution providing for the issuance of the refunding bonds and the cancellation of the original bonds is filed with the comptroller.

(c) After the original bonds are cancelled and the refunding bonds are registered by the comptroller, the refunding bonds are valid and binding obligations of the district without further proceedings and have the same force, validity, and effect as the original bonds which they have replaced. (R.S. Art. 7773, sen. 5.)

§ 55.523. Issuing Refunding Bonds which Place a Greater Burden on the District

If the district issues refunding bonds for a greater amount, for a greater rate of interest, or for a longer period of maturity than the bonds which they are to replace or if the refunding bonds in any other respect create a greater burden on the district, the district shall submit the question of whether or not it should issue the refunding bonds to the voters of the district. (R.S. Art. 7773, sen. 6 (part).)

§ 55.524. Law Governing Refunding Bonds

(a) The provisions of this subchapter governing the election and the issuance, approval, validation, registration, and sale of bonds shall apply to refunding bonds.

(b) Refunding bonds shall be registered and delivered in the manner provided in Section 55.521 of this code. (R.S. Art. 7773, sen. 6 (part), 7.)

§ 55.525. Limiting District's Power to Incur Debt

(a) The board of any district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may limit the power of the district to incur debt and issue bonds in the manner provided by this subchapter.

(b) The board may adopt a resolution declaring that for a period of not more than 10 years the district may not issue bonds in excess of 25 percent of the assessed value of taxable property of the district according to the last assessment for district purposes. (R.S. Art. 7795, sen. 1, 2 (part).)

§ 55.526. Notice of Limitation of Debt

Once a week for two consecutive weeks in a newspaper published in the district, the board shall publish notice of the adoption of a resolution to limit the district's power to incur debt. The notice shall state that the resolution will take effect unless a petition against the proposed limitation signed by 10 percent of the qualified property taxpaying electors of the district is presented within 30 days after the first publication of notice. (R.S. Art. 7795, sen. 2 (part).)

§ 55.527. Limitation Election

(a) If a petition is filed under Section 55.526 of this code, the limitation of the power to incur debt will not take effect unless it is approved at a general or special election held in the district. The election will be held in the manner provided for holding other general and special elections in the district.

(b) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Limiting during the term of _____ years, the maximum debt of the district to 25 percent of the assessed value of the real property." (R.S. Art. 7795, sen. 3, 4.)

§ 55.528. Operating under a Limitation on Power to Incur Debt

(a) If no petition is presented under Section 55.526 of this code or if the limitation on the power to incur debt is approved at the election, the district, during the limitation period, may not issue bonds under any statute or the constitution in excess of the limited amount except to complete construction work for which bonds may be issued within the limitation.

(b) The board shall issue bonds in excess of the limitation to complete these works only after the Texas Water Rights Commission has approved the plans and specifications of the original and uncompleted works together with the estimates of their cost. (R.S. Art. 7795, sen. 5.)

§ 55.529. Issuing Bonds in Excess of Debt Limitation

(a) If the plans, specifications, and estimates under Section 55.528 of this code are approved by the Texas Water Rights Commission, the district shall publish notice once a week for three weeks that it intends to issue bonds in excess of the debt limitation to complete the works. The notice shall include the amount of the proposed bond issue and the time when a hearing will be held.

(b) The hearing to issue the additional bonds shall be held not less than 30 days from the date of the first publication of notice, and any property taxpayer, bondholder or other creditor, or interested person may appear and be heard.

(c) If the determination after the hearing is to issue the bonds in the amount stated in the notice, the question of whether or not the bonds should be issued shall be submitted to the voters of the district at an election held in the manner provided by law. (R.S. Art. 7795, sen. 6, 7, 8.)

§ 55.530. Additional Projects for the District

(a) After district bonds have been authorized or issued or after a contract with the United States has been authorized or executed, if the board thinks it is necessary, it may authorize:

- (1) modifications in the district and its improvements;
- (2) purchase or construction of additional improvements and issuance of additional bonds based on the engineer's report; or
- (3) a supplemental contract with the United States.

(b) Before any of the projects under Subsection (a) of this section are undertaken, the board shall enter its findings in the minutes and shall give notice that an election will be held to approve the issuance of bonds or the execution of a contract with the United States. The election shall be held within the time and the returns made and the result determined in the same manner provided for the original bond election. (R.S. Art. 7697.)

§ 55.531. Issuance of Additional Bonds

(a) If an election held under Section 55.530 of this code favors the issuance of additional bonds or execution of a contract with the United States, the board may issue the bonds or negotiate and execute a supplemental contract with the United States in the manner provided in this chapter.

(b) If a contract is made with the United States under Section 55.185 of this code and bonds are not deposited with the United States, the district is not required to issue bonds, and if the district is required to raise funds in addition to the amount of the contract, the district shall issue the bonds only for the additional amount which is needed. (R.S. Art. 7698.)

§ 55.532. Funds to Repair Damaged Improvements

(a) If improvements of the district are damaged, the district may issue bonds or notes to secure funds to repair the damage.

(b) The district's notes may not be for a term of more than 20 years. The board may issue the notes in serial form to mature in installments.

(c) Before the notes are issued, the board shall order an election to be held to approve the issuance of the notes and shall give notice of the election in the manner provided for bond elections. The notice shall include the purpose for which the notes are being issued, the rate of interest, the term of the notes, and the time and place of the election.

(d) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Issuance of notes."

(e) The election shall be held and returns made and canvassed in the manner provided for bond elections.

(f) If two-thirds of the persons voting in the election vote in favor of issuing the bonds, the board may issue and sell the bonds for the benefit of the district.

(g) When the notes are issued or sold, the board shall levy a tax to pay interest on the bonds and to create a sinking fund sufficient to pay the interest and the notes before they mature. (R.S. Art. 7699, as amended.)

§ 55.533. Preferred Lien in Favor of the United States

A lien for the payments due the United States under a contract between the district and the United States under which bonds have not been deposited with the United States shall be a preferred lien to that of any issue of bonds or any series of any issue of bonds subsequent to the date of the contract. (R.S. Art. 7701.)

§ 55.534. Default in Paying Principal and Interest on Bonds by a District Obtaining Its Water Supply from the United States

(a) If a district which obtains its water supply from the United States defaults in the payment of principal and interest on bonds issued by the district, the board, if it considers it advisable, may authorize the issuance of bonds to fund or refund the debt including bonds, debt and accrued interest on debt, and interest on notes lawfully issued to pay for construction or acquisition of irrigation and drainage works.

(b) Before any bonds are issued under this section, the district shall submit to the voters of the district the question of whether or not the bonds should be issued.

(c) The board may issue the bonds either in serial form or in a form which provides for annual payment of principal and interest in a single amount, represented by coupons, and the board may prescribe the form and contents of the bonds and coupons. Amortization of both principal and interest on the bonds shall be accomplished in not more than 40 years from the date the bonds are issued.

(d) If bonds are issued in serial form, they shall be numbered consecutively beginning with one and continuing in numerical order. The bonds shall mature serially in annual amounts which are approximately equal. The board may set the bonds to not less than 5 years not more than 40 years.

(e) If the bonds provide for the annual payment of principal and interest in a single amount which is represented by coupons, the coupons for the first five years may be for any amount which in the judgment of the board is economically sound and within the ability of the district to pay. For the remainder of the term of the bonds, the coupons shall be paid annually in equal amounts which are sufficient to liquidate the remainder of the bonds within 40 years from the date the bonds were issued.

(f) Any funding or refunding bonds issued under this section shall be negotiable.

(g) The district is not bound by the provisions of Sections 55.504-55.505 of this code, and the exercise of the provisions of those sections is left to the discretion of the board. If a suit is instituted, the suit is subject to the provisions and governed by the statutes relating to these suits.

(h) Except as otherwise provided in this section, the laws governing the issuance of bonds and the form and contents of bonds shall apply to bonds issued under this section. (R.S. Art. 7700—a, as amended.)

[Sections 55.535 to 55.580 reserved for expansion]

SUBCHAPTER M. AD VALOREM TAXATION

Section 55.581. Assessor and Collector to Make Assessment

As soon as the assessor and collector has qualified, he shall make an assessment of all taxable property in the district and shall make another assessment each year. (R.S. Art. 7658.)

§ 55.582. Assessment Date

The assessment shall be made on all taxable property in the district on January 1 of each year and shall be completed and the lists and books ready for delivery on or before June 1 of each year. (R.S. Art. 7672.)

§ 55.583. Contents of Assessment

(a) Each assessment shall be made on blanks provided by the board.

(b) The assessment shall include a full statement of all taxable property in the district which is owned by the party who renders it and a statement of the value of the property.

(c) An affidavit made by the owner or agent rendering the property shall be attached to the assessment. The affidavit shall state that the assessment or rendition contains a true and complete statement of all property which is owned by the person who is making the rendition and which is subject to district, county, and state taxation.

(d) In addition to assessments or renditions made by the property owners or agents of property owners, the assessor and collector shall make a similar list of all property in the district subject to county and state taxation which has not been rendered for taxation. (R.S. Art. 7659.)

§ 55.584. Rendition of Taxable Property

(a) Each person who owns taxable property in the district shall render the property for taxation. The property owner shall make the rendition on or before June 1 of each year unless the assessor and collector requests it before that date.

(b) Civil and penal laws relating to securing the rendition of property for state and county taxes and providing penalties for failure to render the property apply to all persons owning or holding property in the district.

(c) The assessor and collector may administer oaths to carry out fully the provisions of this section. (R.S. Art. 7660.)

§ 55.585. Board of Equalization

(a) The board, at its first meeting or as soon after its first meeting as practicable, shall appoint three commissioners to compose the board of equalization for the district. The board shall appoint members to the board of equalization on an annual basis, and any person appointed shall be an elector of the district.

(b) At the meeting at which the initial commissioners are appointed, the board shall set the time for the first meeting of the board of equalization, and the board of equalization shall meet at this time to receive the assessment lists or books of the assessor and collector for examination, correction, equalization, appraisalment, and approval.

(c) The secretary of the board of directors shall act as secretary of the board of equalization at all its meetings and shall keep a permanent record of all the proceedings.

(d) Instead of appointing the board of equalization under Subsection (a) of this section, the board, at its option, may enter on its minutes a resolution constituting itself as the board of equalization for the district.

The board of equalization constituted under this subsection shall have the same powers, duties, and responsibilities delegated to a board of equalization constituted under Subsection (a) of this section. (R.S. Art. 7661, as amended.)

§ 55.586. Oath

Before assuming the duties of the board of equalization, each member shall subscribe to 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 in the district, as shown by the assessment lists or books of the assessor and collector of the district, and add thereto all property not included therein of which I have knowledge." The secretary shall enter the oath in the minutes. (R.S. Art. 7662.)

§ 55.587. Compensation of Board of Equalization and Secretary

Members of the board of equalization and secretary to the board of equalization are entitled to receive the compensation for their services which is fixed by the board. The compensation for each person may not be more than \$6 a day for the time he actually engages in the discharge of his duties. (R.S. Art. 7668.)

§ 55.588. Examination and Correction of Assessment Lists

(a) The board of equalization shall have the assessor and collector furnish all the assessment lists or books for the district so that the board may examine them to determine that each person has rendered his property at full value.

(b) The board of equalization may send for persons and papers and may administer oaths and qualify persons to testify in an effort to determine the value of the property.

(c) If the board of equalization finds that the property valuation is too high, it shall lower the valuation; and if the board of equalization finds that the property valuation is too low it shall raise the valuation.

(d) The board of equalization may correct any errors that appear on the assessor and collector's lists or books and may add any property which was omitted. (R.S. Art. 7663.)

§ 55.589. Determination of Assessment and Appeal

(a) The board of equalization shall equalize the value of all property in the district as nearly as possible. In making the determination, the board shall consider the location of the property and the improvements situated on the property.

(b) Before final action is taken by the board of equalization, any person may file a complaint to the assessment of his or any other person's property. The board of equalization shall hear the complaint, and the complainant may examine witnesses to sustain the complaint to the assessment of the property or the failure to render any property which has not been properly assessed. (R.S. Art. 7664.)

§ 55.590. Furnishing Lists of Persons Who Refuse to Take Oath or Fail or Refuse to Render Property

(a) The assessor and collector shall furnish to the board of equalization, at the time he delivers his lists and books, a certified list of the names of all persons who refuse to swear to or sign the oath or who fail or refuse to list their property.

(b) The board shall examine the list and appraise the property listed by the assessor and collector. (R.S. Art. 7665.)

§ 55.591. Contesting Increased Assessments and Addition of Land to Tax List

(a) After the board of equalization has examined fully the lists and corrected all errors, if it raises the valuation of any property appearing on the lists or books of the assessor and collector or adds property to the lists or books, it shall adjourn for not less than 10 nor more than 15 days. The board of equalization shall then reconvene to hear from any person whose property valuation was raised or whose property was added to the lists or books. The date on which the board of equalization will reconvene shall be set in the order of adjournment.

(b) The board of equalization shall have the secretary give written notice of the date on which it will reconvene to any owner of property whose valuation was increased or whose property was added to the list or the person who rendered the property. The notice may be served by mail.

(c) The owner or person rendering the property may appear before the board of equalization when it reconvenes and show cause why the valuation should not be raised or the property should not be added to the list. (R.S. Art. 7666.)

§ 55.592. Meeting to Hear Persons whose Property Valuation Is Raised

The board of equalization shall meet at the time specified in the order under Section 55.591 of this code and shall hear any person whose property valuation has been raised. If the board of equalization decides that it has raised the valuation too high, it shall lower the valuation to the proper level. (R.S. Art. 7667 (part).)

§ 55.593. Returning Lists of Equalized Property

After the board of equalization has examined and equalized the value of all property on the assessor and collector's lists or books, it shall approve the lists or books and return them together with the lists of unrendered property to the assessor and collector, who shall use them to make the general tax rolls. (R.S. Art. 7667 (part).)

§ 55.594. Approving General Tax Rolls

After the general tax rolls are completed, the board of equalization shall reconvene to examine the rolls and approve them if they are correct. The action of the board of equalization is final and is not subject to revision by the board of equalization or any other tribunal. (R.S. Art. 7667 (part).)

§ 55.595. Dates for Equalization of Taxes and Preparation of Tax Roll

(a) After the initial meeting, the board of equalization shall meet annually on the first Monday in June of each year to receive the assessment lists or books for examination, correction, equalization, appraisal, and approval and for addition of any property which is unrendered.

(b) The board of equalization shall complete and deliver the lists and rolls to the assessor and collector by the third Monday in July of the same year.

(c) The assessor and collector shall complete the tax rolls and the board of equalization shall approve the tax rolls and return them to the assessor and collector by the first Monday in October of each year. (R. S. Art. 7673.)

§ 55.596. Permanent Tax Rolls

(a) After the assessment lists and books are approved by the board of equalization and returned to the assessor and collector, he shall compile

the assessment of all taxable property in the district on duplicate tax rolls.

(b) After these tax rolls are approved by the board of equalization, one copy of the tax roll shall be retained in the office of the assessor and collector and one copy shall be delivered to the board which shall keep it as a permanent record. (R.S. Art. 7669 (part).)

§ 55.597. Retaining Lists and Books as Permanent Records

The assessor and collector shall have all the lists and books substantially bound and shall keep them as a permanent record of his office. The assessor and collector shall deliver the bound lists and books together with the other records of his office to his successor, after the successor is elected and has qualified, or if a vacancy occurs in the office of assessor and collector, the records shall be delivered to the board. (R.S. Art. 7669 (part).)

§ 55.598. Duty to Collect and Deposit Taxes and Make Report

(a) The assessor and collector shall collect all taxes which are owed to the district and shall, at the end of each week, pay all the money which has been collected by him to the district depository.

(b) On the fourth Saturday in each month, the assessor and collector shall report to the board all money which has been collected by him and paid to the depository. (R.S. Art. 7670 (part).)

§ 55.599. Date Taxes are Due

Taxes levied under this subchapter are due on November 1 of each year and shall be paid before the following February 1. (R.S. Art. 7674 (part), as amended.)

§ 55.600. Tax Office

For the convenience of district taxpayers, the assessor and collector shall maintain an office with the board. The office shall serve as a place where taxes may be paid. (R.S. Art. 7670 (part).)

§ 55.601. Additional Duties of the Assessor and Collector

The board may prescribe other duties for the assessor and collector which duties shall be performed in the manner prescribed in the board's rules and regulations. (R.S. Art. 7670 (part).)

§ 55.602. Records of Tax Collections

(a) The board shall charge the assessor and collector with the total assessment which is shown by the assessment rolls. The charge shall be kept in a permanent finance ledger kept for that purpose.

(b) The assessor and collector shall receive proper credit for all money paid to the district depository as shown by the monthly reports.

(c) On the final settlement, the assessor and collector shall make a full and complete report of all taxes which have not been collected, and this report shall be audited by the board and proper credit shall be given for the unpaid taxes. The final annual settlement shall be made on the first Monday in September of each year. (R.S. Art. 7671.)

§ 55.603. Delinquent Tax Liens

(a) Any land or property against which delinquent taxes are due shall have a lien against it for the payment of the delinquent taxes.

(b) The district may file suit to enforce the lien against any land or other property.

(c) If the person who is the record owner of the land or other property on the date the suit is filed is made a party to the suit and receives prop-

er notice, the land may be sold under a judgment of the court to recover the taxes, interest, penalty, and the costs due for any preceding years even if the owner is unknown, the land is listed in the name of a person who is not the owner, or the ownership changes.

(d) Any laws providing for a period of limitation on debt or actions do not apply to taxes accruing after the district is created. (R.S. Art. 7675.)

§ 55.604. Assessment Liens

Assessments made by the board for maintenance and operation of the district are liens against the land on which the assessments were made and remain liens on the land until the assessments are paid. No law which provides for a period of limitation against actions for debt shall apply under this section, and these debts cannot be barred by limitation. (39th Legis., Ch. 152, Sec. 4.)

§ 55.605. Interest and Penalty on Delinquent Taxes

(a) If any person fails or refuses to pay the taxes on his property until after January 31 following the return of the assessment roll of the district, a penalty of 10 percent on the entire amount of the delinquent taxes shall be collected and paid to the district.

(b) Delinquent taxes and penalties shall bear interest from August 1 after they become due at a rate of six percent a year (R.S. Art. 7684, sen. 1, 2, as amended.)

§ 55.606. Collection of Delinquent Taxes

The assessor and collector of taxes, using the tax roll, shall sell enough of the personal property to produce a sufficient amount to pay the taxes together with the penalty, interest, and costs. If the assessor and collector cannot find any personal property to sell, he shall prepare and file with the secretary of the district the delinquent tax list provided in Section 55.608 of this code, charging against the property all taxes, interest, and penalties assessed against it and the owner. (R.S. Art. 7684, sen. 3, 4, as amended.)

§ 55.607. Delinquent Tax Roll

(a) The board shall have the assessor and collector prepare or shall have prepared at the expense of the district a list of all land in the district on which taxes are unpaid on January 31 of each year. This list shall be called the delinquent tax roll.

(b) The delinquent tax roll shall be delivered to the secretary of the district to be kept as part of the records in his office.

(c) The delinquent tax roll shall include a sufficient description to identify property on which delinquent taxes are due. The description may be made by reference to lot or block number. (R.S. Art. 7677, sen. 1, 2, 3, as amended.)

§ 55.608. Recording Delinquent Tax Roll

When the board receives the delinquent tax roll, it shall record the roll in a book which is labeled, "The Delinquent Tax Record of _____ County, Water Improvement District No. _____", and shall include with the tax roll an index which shall contain the names of all delinquent taxpayers in alphabetical order. (R.S. Art. 7678.)

§ 55.609. Publication of Delinquent Tax Record

(a) On completion of the delinquent tax record by the district, the board shall publish the record once a week for three consecutive weeks in a newspaper published in the county in which the district is located.

(b) If there is no newspaper published in the county in which the district is located, the board shall enter into a contract with a newspaper outside the district to publish the notice. The district may pay a publisher's fee of not more than 25 cents for each tract of land advertised.

(c) Publication may be proven by an affidavit which specifies the time when the record was published and which is signed by the proprietor of the newspaper, the foreman, or the principal clerk of the newspaper. The affidavit shall be attached to a copy of the publication. (R.S. Art. 7679.)

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, § 6, eff. May 31, 1971.

§ 55.610. Suit to Collect Delinquent Taxes

(a) Twenty days after notice is published under Section 55.609 of this code or as soon after that time as practicable, the board shall employ an attorney to bring suit to collect all taxes, interest, penalty, and costs due on the land. The suit shall be brought in the name of the district in the district court of the county in which the district is located.

(b) The petition

(1) shall describe the land on which taxes and penalties remain unpaid;

(2) shall state the total amount of taxes and penalties due on the land with interest computed to the time of sale at a rate of six percent a year;

(3) shall request judgment for the amount stated;

(4) shall request that the lien against the land be fixed, established, and foreclosed and that the land be sold to satisfy the judgment for taxes, interest, penalty, and costs; and

(5) shall request other relief to which the district is entitled under the law and facts.

(c) Suits to enforce the collection of taxes under this section shall have priority over all other suits pending in the district court. (R.S. Art. 7680.)

§ 55.611. Publication not Prerequisite to Filing Tax Suit

The publication of the delinquent tax rolls is not a prerequisite to filing tax suits, and the suits may be filed without publication of the notice. (39th Legis., Ch. 152, Sec. 2, sen. 2.)

§ 55.612. Conduct of Foreclosure Suit

The proper persons shall be made defendants in foreclosure suits and shall have process served on them in the manner provided by law for other suits of the same kind. In case of foreclosure, an order of sale shall be issued in the manner provided for other foreclosure suits. (R.S. Art. 7681 (part).)

§ 55.613. Redeeming Lands on which Delinquent Taxes Are Owed

Any delinquent taxpayer whose land has been returned delinquent or anyone who has an interest in the land may redeem the land at any time before it is sold under the provisions of this subchapter. The land may be redeemed by paying to the assessor and collector the taxes due on the land together with interest, penalty, and costs. (R.S. Art. 7685.)

§ 55.614. Sale of Foreclosed Land in Several Small Tracts

If the defendant or his attorney, at any time before the land is sold, shall file with the sheriff or other officer who has an order to sell the land a written request that the land be divided and sold in several tracts, the sheriff or other officer shall sell only as many tracts as may be nec-

essary to satisfy the judgment, interest, penalties, and cost. The written request shall include a description of the division which the defendant requests, and the defendant's divisions shall be adopted if it is reasonable. (R.S. Art. 7681 (part).)

§ 55.615. Disposition of Excess Sale Price

After the payment of taxes, interest, penalties, and costs from the money obtained at a sale of land on which a judgment of foreclosure has been made, the sheriff or other officer executing the order of sale shall pay to the defendant or his attorney any remaining portion of the money obtained at the sale. (R.S. Art. 7681 (part).)

§ 55.616. Deed for Land Sold for Delinquent Taxes

After land is sold to pay delinquent taxes, the sheriff or other officer selling the land or his successor in office may give a deed for the land sold to the purchaser or to any other person designated by the purchaser. The deed shall be held by any court in this state to vest a good and perfect title in the purchaser of the land, and the title may be impeached only for actual fraud. (R.S. Art. 7682.)

§ 55.617. Attorneys' Compensation

The attorneys who represent the district in suits against delinquent taxpayers are entitled to receive from the delinquent taxes collected the compensation fixed by the board. The compensation paid to the attorneys shall not be more than 15 percent of the amount of delinquent taxes collected. (R.S. Art. 7683, sen. 1.)

§ 55.618. Attorney's Fees Added to Taxes

If a district employs an attorney to collect delinquent taxes, the attorney's fee fixed under Section 55.616 of this code shall be added as collection fees to the taxes in an amount of not more than 10 percent of the delinquent taxes as collection. These fees may be recovered in the judgment rendered in the delinquent tax suit. (39th Legis., Ch. 152, Sec. 2, sen. 1.)

§ 55.619. Fees of Other Officers

The sheriff, district clerk, and other officers executing any writ or performing any service in the foreclosure of delinquent taxes on land in the district are entitled to receive for their services the same fees provided by law for the same services performed in the discharge of their official duties. (R.S. Art. 7683, sen. 2.)

§ 55.620. General Powers and Regulations

(a) No district may become a party to, purchase, hold under, assign, seek to enforce, or receive benefits from a contract between a landowner and a private canal company which was entered into before the district was created. Rights and privileges owned or possessed by the district are those arising or inherent in the district under this chapter.

(b) The district may not:

- (1) acquire or enforce any lien against the land which was fixed by a contract entered into before the district was created;
- (2) prosecute or have prosecuted any suit to recover water taxes or assessments which accrued before the district was created;
- (3) foreclose any lien on land for unpaid water taxes or assessments which accrued before the district was created;
- (4) avail itself of any rights under a private contract relating to the land which contract was entered into before the district was created; and
- (5) be held liable for the private contract.

(c) The two-year statute of limitation and the provisions of this section may be pleaded as a bar to an action to recover water rents or other assessments which accrued on land in the district before the district was created. (R.S. Art. 7676.)

§ 55.621. Alternative Method of Assessment and Equalization

(a) Any district assessing taxes on the ad valorem basis may adopt the county assessments and equalization of values on property as a basis for the levy and collection of district taxes.

(b) The district may obtain from the assessor and collector of the county a list of tax renditions covering property in the district and may have the assessor and collector for the district use this list as the tax roll for the district instead of making an independent assessment. (R.S. Art. 7791, sen. 1.)

§ 55.622. Authorizing County to Assume Collection of District Taxes

(a) If officers of a district fail to perform and discharge their duties to assess and evaluate property in the district and collect taxes, any bondholder or other person interested in the district and the payment of its obligations may request the commissioners court to order the assessor and collector of the county to perform the duties provided in Section 55.623 of this code.

(b) The commissioners court shall investigate the matter, and if it finds the alleged conditions to exist, it shall enter an order directing the assessor and collector of the county to proceed to collect the taxes. No assessor and collector of a county may collect taxes for a district until ordered to do so by the commissioners court.

(c) If a dispute arises over whether or not the district officers are performing their duties, the dispute shall be determined by a suit against the officers in the district court for a writ of mandamus or an injunction to prevent the officers from interfering with the collection of the taxes and the payment of the obligations by the assessor and collector of the county and the commissioners court. A decision of the district court may be appealed to the court of civil appeals whose judgment is final.

(d) The provisions of Sections 55.622 and 55.623 of this code do not authorize anyone to interfere with the district officers if they are actively discharging their duties, but if the officers fail to perform their duties or a vacancy occurs in the offices, the duties in these sections shall be exercised. (R.S. Art. 7791, sen. 7, 8, 9, 10.)

§ 55.623. Assessor and Collector of County to Collect Taxes

(a) If the assessor and collector for the district and the district directors fail or refuse to properly assess property, equalize tax values, and prepare a tax roll, taxes levied at the time bonds or other obligations of the district are issued shall be collected by the assessor and collector for the county by entering on his rolls the tax against all property located in the district for the year or years which the officers failed to perform their duties.

(b) If the tax levy is not sufficient because of deceased valuations, they shall be increased by order of the commissioners court.

(c) Taxes collected under this section shall be deposited in the county depository in a special fund devoted to the payment of principal of and interest on the bonds or other obligations and the money shall be paid from the fund on order of the commissioners court.

(d) If the assessor and collector of the county fails or refuses to perform the duties under this section, any holder of the bonds and obligations may seek a writ of mandamus in a court of competent jurisdiction to compel the assessor and collector of the county to perform the duties.

(e) The assessor and collector of the county is entitled to receive for his services under this section a reasonable fee fixed by the commissioners court in an amount not to exceed the rate of compensation provided by

law for the performance of similar duties in the collection of county taxes. (R.S. Art. 7791, sen. 2, 3, 4, 5, 6.)

§ 55.624. **Districts in Two or More Counties**

If a district includes territory in two or more counties, the duties provided in Sections 55.622 and 55.623 of this code shall be performed by the assessor and collector of each county and the commissioners court of each county for property located in their respective counties. (R.S. Art. 7791, sen. 11.)

[Sections 55.625 to 55.650 reserved for expansion]

SUBCHAPTER N. TAXATION ON A BENEFIT BASIS

Section 55.651. Election to Determine Method of Taxation

(a) A district which operates under the provisions of Article XVI, Section 59, of the Texas Constitution, may, at the time the district is created or before bonds are issued, submit to the voters of the district the question of whether the district will levy, assess, and collect taxes on the ad valorem basis or on the benefit basis.

(b) The question shall be presented to the voters at the time and in the manner provided by the board.

(c) The ballots for the election shall be printed to provide for voting for or against the following proposition: "The levy of taxes on the benefit basis instead of the ad valorem basis."

(d) The election shall be governed by the provisions of this chapter.

(e) If a majority of the persons voting in the election favor the proposition, the district shall levy, assess, and collect its taxes on the benefit basis. (R.S. Art. 7807, sen. 1, 2, 3, 4 (part).)

§ 55.652. **Assessment Record**

When necessary, the board shall apportion and assess the benefits conferred on property in the district and shall make a record showing the amount and value of benefits to accrue on property in the district and the amount of taxes to be levied and collected on the property. No taxes assessed or adjudged against the property may be more than the benefit which accrues to the property from the organization, operation, and maintenance of the district and its improvements. (R.S. Art. 7807, sen. 4 (part).)

§ 55.653. **Notice of Taxes**

After the board makes the record specified in Section 55.652 of this code, the board shall mail to each property owner whose name appears in the record, notice of the amount of taxes levied on his property and the date and place at which the property owner may appear and contest the correctness and equitableness of the tax. (R.S. Art. 7807, sen. 5.)

§ 55.654. **Decision After Hearing**

After the hearing, the board shall determine whether or not the tax is equitable and shall sustain, reduce, or increase the tax to an amount which in the board's judgment is equitable. (R.S. Art. 7807, sen. 6.)

§ 55.655. **Applicable Law**

The provisions of this chapter relating to levy, assessment, and collection of taxes which are not inconsistent with the provisions of this subchapter shall apply. (R.S. Art. 7807, sen. 7.)

§ 55.656. **Districts Adopting Benefit Plan of Taxation**

In any district other than a district operating under a contract with the United States which is operating under the provisions of Article XVI,

Section 59, of the Texas Constitution, and which adopted the assessment of benefit plan of taxation, tax values shall be fixed, levied, assessed, equalized, and collected in the manner provided in Sections 55.657-55.669 of this code. (R.S. Art. 7781.)

§ 55.657. Commissioners of Appraisalment

As soon as practicable after the approval of the engineer's report and the adoption of the plan for improvements to be constructed, the board shall appoint three disinterested commissioners of appraisalment. The commissioners shall be freeholders but not owners of land within the district which they represent. (R.S. Art. 7782.)

§ 55.658. Compensation of Commissioners

On approval by the board, each commissioner is entitled to receive \$10 a day for each day he actually serves, plus all necessary expenses. (R.S. Art. 7784, sen. 3 (part).)

§ 55.659. Notice of Appointment and Meeting

Immediately after the commissioners of appraisalment are appointed, the secretary of the board shall give written notice to each appointee of his appointment and of the time and place of the first meeting of the commissioners. (R.S. Art. 7783, sen. 1.)

§ 55.660. First Meeting of Commissioners

(a) The commissioners shall meet at the time specified in the notice from the secretary or as soon thereafter as possible.

(b) At the meeting the commissioners shall take an oath to faithfully and impartially discharge their duties as commissioners and make a true report of the work which they perform. They shall then organize by electing one commissioner as chairman and one commissioner as vice-chairman.

(c) The secretary of the board or, in his absence, a person appointed by the board shall serve as secretary to the commissioners of appraisalment and shall furnish to the commissioners any information and assistance which is necessary for the commissioners to perform their duties. (R.S. Art. 7783, sen. 2.)

§ 55.661. Assistance for Commissioners

Within 30 days after the commissioners qualify and organize, they shall begin to perform their duties, and in the exercise of their duties, they may obtain legal advice and information relative to their duties from the district's attorney and, if necessary, may require the presence of the district engineer or one of his assistants at any time and for as long as necessary to properly perform their duties. (R.S. Art. 7784, sen. 1.)

§ 55.662. Viewing Land and Other Property and Improvements in District

The commissioners shall view the land in the district which will be affected by the district's reclamation plans and the public roads, railroads, rights-of-way, and other property and improvements located in the district and shall assess the amount of the benefits and damages that will accrue to the land, roads, railroads, rights-of-way, or other property or improvements in the district from the construction of the improvements. (R.S. Art. 7784, sen. 2.)

§ 55.663. Commissioners Report

(a) The commissioners shall prepare a report and file it with the secretary of the board. The report shall be signed by at least a majority of the commissioners.

(b) The report shall include:

- (1) the name of the owner of each tract of land which is subject to assessment;
- (2) a description of the property;
- (3) the amount of the benefits or damages assessed on each tract of land;
- (4) the time and place at which a hearing will be held on the report to hear objections; and
- (5) the number of days each commissioner served and the actual expenses incurred during his service as commissioner.

(c) The date set in the report for the hearing may not be earlier than 20 days after the report is filed. (R.S. Art. 7784, sen. 3 (part), 4.)

§ 55.664. Notice of Hearing

(a) After the commissioners' report is filed, the secretary of the board shall publish notice of the hearing on the report at least once a week for two consecutive weeks in a newspaper published in each county in which part of the district is located. The secretary also shall mail written notice of the hearing to each person whose property will be affected if his address is known.

(b) The notice shall state:

- (1) the time and place of the hearing;
- (2) that the commissioners' report has been filed;
- (3) that interested persons may examine the report and make objections to it; and
- (4) that the commissioners will meet at the time and place indicated to hear and act on objections to the report.

(c) On the day of the hearing, the secretary shall file in his office the original notice and his affidavit stating the manner of publication, the names of persons to whom notice was mailed, and the names of persons to whom notice was not mailed because the secretary by reasonable diligence could not ascertain their addresses. Copies of the notice and affidavit also shall be filed with the commissioners of appraisal and the clerk of the commissioners court. (R.S. Art. 7785.)

§ 55.665. Hearing

(a) At or before the hearing on the commissioners' report, an owner of land which is affected by the report or the reclamation plans may file exceptions to all or part of the report.

(b) At the hearing, the commissioners shall hear and form opinions on the objections submitted and for the objections which are sustained, the commissioners may make necessary changes and modifications in the report. (R.S. Art. 7786, sen. 1.)

§ 55.666. Witnesses at the Hearing

At the hearing, interested parties not only may appear in person or by attorney, but are entitled, on demand, to have the chairman of the commissioners issue process for witnesses. The commissioners shall have the same power as a court of record to enforce the attendance of witnesses. (R.S. Art. 7787, sen. 2.)

§ 55.667. Costs of Hearing

The commissioners may adjudge and apportion the cost of the hearing in any manner they consider equitable. (R.S. Art. 7786, sen. 3.)

§ 55.668. Commissioners' Decree

(a) After the commissioners have made a final decision based on the hearing, they shall issue a decree confirming their report insofar as it remains unchanged, and shall approve and confirm changes in the report.

(b) The final decree and judgment of the commissioners shall be entered in the minutes of the board, and certified copies shall be filed as a permanent record with the county clerk of each county in which part of the district is located and shall be notice to all persons of the contents and purpose of the decree.

(c) The findings of the commissioners which relate to benefits and damages to land and other property in the district are final and conclusive. (R.S. Art. 7786, sen. 2, 4, and 5.)

§ 55.669. Effect of Final Judgment and Decree

The final judgment and decree of the commissioners shall form the basis for all taxation in the district. Taxes shall be apportioned and levied on each tract of land and other real property in the district in proportion to the net benefits to the land or other property stated in the final judgment and decree. (R.S. Art. 7787, sen. 1.)

§ 55.670. Fixing Tax as Equal Sum on Each Acre

At the election at which the plan of taxation is determined or at any other time before the bonds are issued, the voters of a district which is not operating under a contract with the United States may vote on the proposition of whether or not benefits for tax purposes shall be fixed as an equal sum on each acre of land that is irrigated or to be irrigated by gravity flow from the canal system of the district. The benefit per acre shall be voted on as it is applied to land in the district that can be irrigated by gravity flow from the irrigation system and also the benefit to land in the district that cannot be irrigated by gravity flow. (R.S. Art. 7779, sen. 1 (part), 2.)

§ 55.671. Election

(a) If the board desires to submit the question of whether or not to adopt the method of assessing benefits provided in Section 55.670 of this code, it shall order an election to be held in the district and shall submit the proposition in the manner provided for other district elections.

(b) The ballots for the election shall be printed to provide for voting for or against: "Uniform assessment of benefits of \$_____ per acre on all irrigable land in the district, and the assessment of \$_____ per acre on all nonirrigable land in the district."

(c) The board shall determine the amounts which shall fill the spaces in the proposition. The amount of charge per acre may be found by dividing the number of acres of land into the amount of debt to be incurred by the district in providing for irrigation.

(d) If a majority of the persons voting in the election vote in favor of the proposition, it shall be adopted. (R.S. Art. 7779, sen. 3, 4, 5, 6, 8.)

§ 55.672. Excluding Nonirrigable Land from District

If the owner of land which is classed as nonirrigable under the uniform acreage valuation objects to the amount of charges fixed against him by the order calling the election or by the result of the election, he may have his nonirrigable land excluded from the district by filing an application for exclusion as provided by law within 10 days after the election is held. (R.S. Art. 7779, sen. 7.)

§ 55.673. Setting Annual Value of Land Unnecessary

If the district adopts the uniform acreage valuation for taxation, the valuation shall be applied to all land, and it is not necessary for the as-

essor and collector or the board of equalization to annually fix the value of the land or equalize the values. It is also unnecessary for the board to appoint a commission to ascertain or fix the value of the improvement to particular land. (R.S. Art. 7779, sen. 9.)

§ 55.674. Preparing Tax Rolls

(a) The board of equalization shall examine the renditions and tax rolls to determine if all property subject to taxation appears on the tax rolls under the proper classification. The board of equalization shall add to the tax roll any property which was left off or was not rendered for taxation and shall examine, correct, and certify the tax roll.

(b) Any property owner may protest to the board of equalization that his property has not been properly classified. The board of equalization shall consider the protest, hear evidence, and enter its findings in the minutes in the manner provided by law. (R.S. Art. 7779, sen. 10, 11.)

§ 55.675. Rendition of Property

Land which is taxed on the uniform acreage valuation shall be rendered for taxation as either subject to irrigation or not subject to irrigation. When land is rendered, the value need not be stated, and it is unnecessary for the person rendering the property to include the value of the land in an affidavit or for the assessor to set a value on the land. (R.S. Art. 7779, sen. 12 (part).)

§ 55.676. Law Governing Administration of Benefit Tax Plan

The rate of taxation, the collection of taxes, the assessment of property, and the rendition of property for taxation shall be governed by the law relating to ad valorem taxes. (R.S. Art. 7779, sen. 12 (part).)

§ 55.677. Irrigating Nonirrigable Land

If land which is classed as nonirrigable is later irrigated by the district, before the owner of the land receives the water, he shall pay to the district an amount equal to the entire amount that would have been charged to the owner if the land had been originally classed as irrigable. (R.S. Art. 7779, sen. 13.)

[Sections 55.678 to 55.710 reserved for expansion]

SUBCHAPTER O. ADDING AND EXCLUDING TERRITORY, AND CONSOLIDATING DISTRICTS

Section 55.711. Excluding Land by Order of Directors

Prior to the issuance of bonds or other fixed obligations by the district, the district may exclude from the district land included within its boundaries that cannot be irrigated by gravity flow from the irrigation system as constructed. (R.S. Art. 7801, sen. 1.)

§ 55.712. Director's Order

The board shall enter an order in its minutes specifying the land and the owners of the land to be excluded and declaring the land to be in a position that prevents it from being irrigated by gravity flow from the canals constructed or to be constructed. (R.S. Art. 7801, sen. 2.)

§ 55.713. Notice of Order

Within 10 days after the board's order excluding land from the district is made and entered in the minutes, notice of the order shall be given by publishing a copy of the order once a week for two weeks in a newspaper of general circulation in the county in which the land is located. (R.S. Art. 7801, sen. 3.)

§ 55.714. Protest by Owners

(a) If a protest to the exclusion is not filed with the board within 15 days after the final publication of notice, the board's order shall become final on all land included in the order whose owners have not filed a protest. (R.S. Art. 7801, sen. 4.)

(b) If the owner of land or any part of land included in the board's order shall file a protest with the board contesting the exclusion of the land and requesting the board not to take the land out of the district, the board shall annul the part of the order which relates to the land, and the land shall remain in the district. (R.S. Art. 7801, sen. 5.)

§ 55.715. Returning Excluded Land to a District

If land is excluded from a district by order of the board and later the district desires to return the land to the district, the land may be included in the district on application of the owners of the land in the manner provided by this subchapter for adding lands to an established district. (R.S. Art. 7801, sen. 6.)

§ 55.716. Excluding Land by Petition of Landowner

Before the issuance of bonds by the district, the owner of any land included in the district may file a petition with the board requesting that land owned by him be excluded from the district. The petition shall describe the lands which the petitioners desire to have excluded by metes and bounds and the petition must be acknowledged in the manner and form required by law for the conveyance of real estate. (R.S. Art. 7646.)

§ 55.717. Petition

When the petition to exclude land from the district is filed with the board, the board shall immediately set the date of the hearing on the petition. The hearing shall be not later than 20 days from the date the petition is filed. (R.S. Art. 7647, sen. 1 (part).)

§ 55.718. Notice of Hearing

The board shall give notice of the hearing on a petition to exclude land by posting written or printed notices of the time and place of the hearing at three public places in the district. The notice shall contain a copy of the petition for exclusion and shall be posted for at least eight days before the hearing. (R.S. Art. 7647, sen. 1 (part), 2.)

§ 55.719. Hearing

(a) At the hearing, the board shall hear the petition and all objections to the petition to determine whether or not all or part of the land should remain in the district or be excluded from it. (R.S. Art. 7648 (part).)

(b) During the course of a hearing, the board may adjourn the hearing from time to time. (R.S. Art. 7648 (part).)

(c) If the board finds that all or part of the land cannot be irrigated by gravity flow from the irrigation system as constructed or to be constructed, or if they find for other reasons that the land should be excluded, they shall grant the petition in whole or in part. (R.S. Art. 7648 (part).)

§ 55.720. Rights of Excluded Land and Owners

If the board finds that land should be excluded from the district, the excluded land and the owners of excluded land waive all right to receive water from the district or from the irrigation system of the district. (R.S. Art. 7648 (part).)

§ 55.721. Exclusion of Nonagricultural and Nonirrigable Land from District

Land located in the district which is classified as nonagricultural and nonirrigable may be excluded from the district in the manner provided in Sections 51.702-51.713 of this code. (New.)

§ 55.722. Directors' Resolution Excluding Land in or near a City

When there is inside the district land lying inside or adjoining the territorial limits of an incorporated city or town which was not included in the district at the time the district was created, and when the land has been subdivided into town lots and blocks, with streets or other thoroughfares dedicated to the use of the public, and when a map and the dedication have been filed for record with the county clerk of the county in which the land is located, the board of the district may by resolution discontinue the land as a part of the district. When the resolution is passed, the secretary of the district shall enter it in the minutes of the board of directors of the district, and from that time, the territory is excluded from the district and is no longer entitled to be served with water by the district. (40th Legis., Ch. 216, Sec. 1.)

§ 55.723. Owners' Petition to Exclude Land

The owner or owners of the fee of land containing at least 10 acres inside a district, may file a petition with the board asking that the land be excluded from the district. The petition must describe the land by metes and bounds. When the petition is filed with the secretary of the district, the board shall order an election to be held at convenient places in the district within 30 days. If a majority of the qualified electors of the district who vote in the election vote to discontinue the land as a part of the district, the board by order shall declare the land to be excluded from the district. The order must be entered in the minutes of the board. After the order is entered, the land is excluded from the district and is no longer entitled to be served with water by the district. (40th Legis., Ch. 216, Sec. 2.)

§ 55.724. Taxes on Excluded Land

If land is excluded from a district at a time when the district has outstanding debt, the excluded land is not released from the payment of its pro rata share of the indebtedness. The district shall continue to levy taxes each year on the property at the same rate levied on other property of the district, until the taxes collected from the excluded land equals its pro rata share of the indebtedness of the district at the time of the exclusion of the land. The taxes so collected shall be charged only with the cost of levying and collecting the taxes, and shall be applied exclusively to the payment of the pro rata share of the indebtedness. The owner of all or part of the excluded land may pay in full, at any time, his pro rata share of the indebtedness, both principal and interest, of the district. (40th Legis., Ch. 216, Sec. 3.)

§ 55.725. Adding Land by Petition of Landowner

The owner or owners of land in the vicinity of the district may file a written petition with the board requesting that the land described by metes and bounds in the petition be included in the district. (R.S. Art. 7649, sen. 1, 2 (part), as amended.)

§ 55.726. Survey of Land to be Added

When the petition to include land in the district is filed with the board, they shall have a survey made of the land described in the petition and the boundaries marked on the ground. (R.S. Art. 7649, sen. 2 (part), as amended.)

§ 55.727. Annexation Authority

The directors may include in the district the land described in the petition if it can be irrigated without impairing the irrigation rights of any of the land already in the district. (R.S. Art. 7649, sen. 2 (part), as amended.)

§ 55.728. Liability of Included Land

If the land described in the petition is included in the district, the land shall immediately become liable for its proportionate share of taxes or bonded indebtedness which has been created against the district and for a reasonable assessment by the board to pay part of maintenance, operation or other necessary expenses. (R.S. Art. 7649, sen. 2 (part), as amended.)

§ 55.729. Petition and Order by Directors Recorded

If the land described in the petition is included in the district, the petition for inclusion must be signed and acknowledged in the manner provided for acknowledging deeds, and the petition and the order of the board including the land in the district must be recorded in the deed records of the county in which the district is located. (R.S. Art. 7650.)

§ 55.730. Adding Land by Petition of 50 Landowners of the Territory

Landowners of a defined area of territory not included in a district may file a petition with the board signed by 50 or a majority of the landowners in the territory requesting that the land described by metes and bounds in the petition be included in the district. (47th Legis., Ch. 403, Sec. 1, sen. 1, 2, 3 (part).)

§ 55.731. Hearing on Petition

When a petition to include land in the district is filed with the board, the board by order shall set the time and place of the hearing on the petition. The board may not hold the hearing before the expiration of the 30th day after the day of the order. (47th Legis., Ch. 403, Sec. 1, sen. 3 (part).)

§ 55.732. Notice of Hearing

(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and in two public places in the territory proposed to be annexed. The notices shall be posted for at least 15 days immediately preceding the day of the hearing.

(c) The secretary also shall publish the notice one time in a newspaper of general circulation in the county. The notice shall be published before the beginning of the 15-day period immediately preceding the day of the hearing. (47th Legis., Ch. 403, Sec. 1, sen. 4, 5.)

§ 55.733. Procedure at Hearing

At the time and place stated in the notice, the directors shall hear the petition to annex land to the district in the manner provided by Section 55.027 of this code. (47th Legis., Ch. 403, Sec. 2, sen. 1.)

§ 55.734. Resolution to Add Territory

On hearing the petition if the board finds that the addition would be of benefit both to the territory and to the district, it may add the territory to the district by resolution entered on its minutes. The board need not include all the land described in the petition if it finds that a modifica-

tion or change is necessary or desirable. (47th Legis., Ch. 403, Sec. 2, sen. 2, 3.)

§ 55.735. Elections to Ratify Annexation of Land

Annexation of the territory is not final until ratified at separate elections held in the district and in the territory proposed to be added to determine whether the land will be added to the district. If the district has outstanding debts or taxes, the same election shall also determine whether or not the territory to be added will assume its proportion of the debts or taxes if the land is added to the district. (47th Legis., Ch. 403, Sec. 2, sen. 4; and Sec. 3, sen. 1, 2.)

§ 55.736. Date of Elections

The board shall order elections to be held on the same day and not more than 30 days after the board enters its resolution tentatively adding the land to the district. (47th Legis., Ch. 403, Sec. 3, sen. 3.)

§ 55.737. Notice of Elections

The board shall give notice of the elections to determine whether land shall be added to a district by posting copies of the notice of election at three public places in the district and at least two public places in the territory proposed to be added for at least 20 days immediately preceding the date of the elections. (47th Legis., Ch. 403, Sec. 3, sen. 4.)

§ 55.738. Judges and Clerks to Conduct Elections

(a) The directors shall appoint two judges, one of whom shall be the presiding judge, and two clerks for each polling place in the district, who shall conduct the election in the district and make returns of the election. (47th Legis., Ch. 403, Sec. 3, sen. 5 (part).)

(b) The directors shall designate one or more polling places in the territory proposed to be added to the district, and shall appoint two judges, one of them shall be the presiding judge, and two clerks for each of the polling places, who shall conduct the election in the territory and make returns of the election. (47th Legis., Ch. 403, Sec. 3, sen. 5 (part).)

§ 55.739. Election Ballots

(a) The ballots for the election to determine whether land shall be added to the district shall be printed to allow for voting for or against: "Addition to water improvement district." (47th Legis., Ch. 403, Sec. 3, sen. 8.)

(b) If the question of whether or not the added territory will assume its proportion of the outstanding debts or taxes of the district is submitted, the ballots for the election shall be printed to allow for voting for or against: "Addition to water improvement district and assumption of proportionate part of outstanding debts and taxes." (47th Legis., Ch. 403, Sec. 3, sen. 9.)

§ 55.740. Provisions Governing Elections

Except as otherwise provided in this chapter, the manner of holding each of the elections to determine whether land shall be added to a district and the qualifications of persons voting in the elections are governed by the provisions of this chapter applying to the election held to create a district. (47th Legis., Ch. 403, Sec. 3, sen. 7.)

§ 55.741. Election Expenses

The district shall pay all expenses of the election held to determine whether land shall be added to the district. (47th Legis., Ch. 403, Sec. 3, sen. 6.)

§ 55.742. Vote Required to Approve Annexation of Land

(a) In a district organized and operating under the provisions of Article III, Section 52, of the Texas Constitution, a two-thirds vote of the electors voting at each election is required to ratify annexation of land to the district. (47th Legis., Ch. 403, Sec. 4, sen. 1.)

(b) In a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, a majority vote of the electors voting at each election is required to ratify annexation of land to the district. (47th Legis., Ch. 403, Sec. 4, sen. 2.)

§ 55.743. Final Annexation Upon Favorable Vote

If the proposition to add land to a district receives the vote required in Section 55.742 of this code, the land added becomes an integral part of the district on the date of the election. The added land is subject to all laws governing the district from the date of the election and shall bear its pro rata part of all debts or taxes owned, contracted, or authorized by the district to which it is added. (47th Legis., Ch. 403, Sec. 4, sen. 3.)

§ 55.744. Affairs of the District After Annexation

Annexing land to a district does not in any manner affect the officers, employees, or affairs of the district, but the voters of the added territory have the right to participate in all district matters considered or voted on after the land is added. (47th Legis., Ch. 403, Sec. 5.)

§ 55.745. Addition of Land in Adjoining County

Land in an adjoining county may be included in a district in the same manner that land in the same county is added to a district. (R.S. Art. 7737a, as amended.)

§ 55.746. Annexation of Land Owned by District Directors

(a) A director of a district operating under Article XVI, Section 59, of the Texas Constitution, may have land owned by him annexed to the district under the provisions of this subchapter. (55th Legis., Ch. 346, Sec. 1.)

(b) A director seeking to have land which he owns annexed to the district shall not participate in the proceedings of the board to consider the acceptance or rejection of the application. The remaining directors of the district may determine conditions and terms of annexation of a director's land which are not inconsistent with the provisions of this chapter. (55th Legis., Ch. 346, Sec. 2.)

§ 55.747. Consent Necessary if United States Has Contract

No land may be added to a district which is under contract with the United States without the written consent of the secretary of the interior. (R.S. Art. 7651.)

§ 55.748. Land which Becomes Part of District as if Originally Included

If land entitled to be served by an established irrigation system is not originally included in the district in the manner provided by law and later is included in the district, it shall become part of the district as if originally included and is entitled to water service on an equal basis with land originally included in the district. (R.S. Art. 7766.)

§ 55.749. Liability of Land Added to a District

(a) If land is added to a district operating under Article XVI, Section 59, of the Texas Constitution, the order of the board adding the land to the district may contain an agreement that the added land will be taxed on the benefit plan of taxation instead of general ad valorem tax. The

agreement may provide that the added land will be taxed on a uniform acreage basis or on the plan of a definite annual payment. (39th Legis., Ch. 152, Sec. 1, sen. 1.)

(b) The board, in its order adding land to the district, shall set the amount of the debts to be paid by the owner of the added land and levy annual taxes against the land to pay the debts. The taxes assessed by the board constitute a lien against the added land in the same manner and to the same extent as if the land had been a part of the district at the time the indebtedness was incurred or authorized by an election held for that purpose. (39th Legis., Ch. 152, Sec. 1, sen. 2.)

(c) The added land is a part of the district and is liable for debts subsequently incurred by the district in the same manner as other land in the district. (39th Legis., Ch. 152, Sec. 1, sen. 3.)

§ 55.750. Consolidation of Districts

Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 55.751-55.754. (R.S. Art. 7778, sen. 1 (part).)

§ 55.751. Elections to Approve Consolidation

(a) After the directors of each district have agreed upon the terms and conditions of consolidation, they shall order an election in each district to determine whether the districts should be consolidated. (R.S. Art. 7778, sen. 1 (part).)

(b) The directors of each district shall order an election to be held on the same day in each district and shall give notice of the election for at least 20 days in the manner provided by law for other elections. (R.S. Art. 7778, sen. 1 (part), 2.)

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation. (R.S. Art. 7778, sen. 3.)

§ 55.752. Governing Consolidated Districts

(a) When two or more districts are consolidated, they become one district, except for the payment of debts created prior to consolidation, and are governed as one district. (R.S. Art. 7778, sen. 6 (part).)

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the district to wind up the affairs of their respective districts. (R.S. Art. 7778, sen. 7 (part).)

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district until the next election or name persons to serve as officers of the consolidated district until the next election if all officers of the original districts agree to resign. (R.S. Art. 7778, sen. 7 (part).)

(d) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period. (R.S. Art. 7778, sen. 8.)

(e) The current boards shall approve the bond of each new officer. (R.S. Art. 7778, sen. 9.)

§ 55.753. Debts of Original Districts

(a) When two or more districts are consolidated, the debts of the original districts are protected and are not impaired.

(b) These debts may be paid by taxes or assessments levied on the land in the original district as if it had not consolidated or contributions from the consolidated district on terms stated in the consolidation agreement. (R.S. Art. 7778, sen. 4, 6 (part).)

§ 55.754. Taxes of the Original District

(a) After consolidation, the officers of the consolidated district shall assess and collect taxes on property in the original district to pay debts created by the original district. (R.S. Art. 7778, sen. 5 (part).)

(b) If the officers of the consolidated district fail or refuse in due time to assess and collect taxes on property in the original district to pay the obligations of the original district, the taxes may be assessed and collected and paid on the obligations by a receiver acting under orders of a district court. A creditor or five or more taxpayers in the district may bring suit in a district court to have a receiver appointed. (R.S. Art. 7778, sen. 5 (part).)

[Sections 55.755 to 55.800 reserved for expansion]

SUBCHAPTER P. DISSOLUTION OF DISTRICT**Section 55.801. Failure to Function**

Subject to the provisions of Sections 50.251–50.256 of this code, if any district does not begin to acquire the necessary canals, ditches, flumes, laterals, reservoirs, sites, damsites, pumping plants, or other things necessary to the successful operation of the district or does not diligently pursue the purposes for which it was created within two years after its organization, the district may be dissolved without formal action. (R.S. Art. 7725, sen. 1 (part).)

§ 55.802. Rights of Debtors if District Failed to Function

Any person with an interest in the district or a debt owed by the district may collect the debt in the manner provided for the collection of a debt due by any person, association of persons, or corporation. A court of competent jurisdiction may render judgment making the debt a lien against the property of the district and providing for the payment of the debt and judgment in the manner that a judgment for debt is enforced against a city or town that has been dissolved. (R.S. Art. 7725, sen. 1 (part).)

§ 55.803. Dissolution Using Procedure for Organization of Districts

If all debts and obligations of the district have been paid and discharged, a district may dissolve voluntarily by the same vote and in the same manner provided in this chapter for the organization of districts. The election shall be held in the manner provided in this chapter for holding elections in the district. (R.S. Art. 7725, sen. 1 (part).)

§ 55.804. Dissolution Using Procedure for Abolition of Districts in Chapter 56

A district may dissolve voluntarily in the manner provided for the dissolution of districts in Chapter 56 of this code, and the provisions in that chapter shall control the abolition of the district and the legal consequences of abolition. (R.S. Art. 7725, sen. 2.)

§ 55.805. Payment of Debts on Dissolution of District

(a) All debts of districts dissolved under the provisions for the dissolution of districts in this subchapter shall be prorated against the lands in the district in accordance with the assessed valuation for the preceding year of the lands owned by each separate landowner, according to the tax rolls in the office of the tax collector of the county in which the land is located. (R.S. Art. 7725—a, sen. 1 (part).)

(b) The pro rata assessments shall be paid within five years from the date of dissolution in five equal annual installments or at any time within the five-year period. (R.S. Art. 7725—a, sen. 1 (part).)

(c) Any allowed claim owned by a landowner against whom a pro rata assessment has been made shall be credited on the liquidation of the assessment. All prior payments made by any landowner of the dissolved district shall be credited on the assessment against him and his land. (R.S. Art. 7725—a, sen. 2 (part), 3.)

(d) The issuance of a receipt for the payment of the assessment by the proper official as provided in Chapter 56 of this code shall release the owner of the assessments and his land from the liens. The receipts may be recorded in the real estate records of the county or counties in which the land of the owner is located. (R.S. Art. 7725—a, sen. 2 (part).)

(e) When the assessment has been paid, the landowner is released automatically from the debt, and his land is released from all liens existing as security for the assessment. (R.S. Art. 7725—a, sen. 2 (part).)

CHAPTER 56. DRAINAGE DISTRICTS

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[Sections 56.002 to 56.010 reserved for expansion]

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56.012. Name of Each District.

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SUBCHAPTER A. GENERAL PROVISIONS

Section 56.001. Definitions

In this chapter:

- (a) "District" means any drainage district organized under this chapter.
- (b) "Board" means the governing body of a drainage district.
- (c) "Commissioners court" means the commissioners court of the county in which the district is organized. (New.)

[Sections 56.002 to 56.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION
TO ARTICLE XVI, SECTION 59, DISTRICT**Section 56.011. Creation of District**

A drainage district may be created in the manner prescribed by this subchapter, either under and subject to the limitations of Article III, Section 52, of the Texas Constitution, or under Article XVI, Section 59, of the Texas Constitution. (R.S. Art. 8097, sen. 1; R.S. Art. 8194.)

§ 56.012. Name of Each District

The name of each district shall include the name of the county in which it is located and each district shall be numbered in consecutive order. (R.S. Art. 8117.)

§ 56.013. Area Included in a District

A district may include all or part of any village, town, or municipal corporation, but land included in one district may not be included in any other drainage district. (R.S. Art. 8097, sen. 2.)

§ 56.014. Petition

(a) Any person may present a petition to the commissioners court requesting the creation of a district. The petition shall be signed by at least 25 of the resident freehold taxpayers of the proposed district, or by at least one-third of the resident freehold taxpayers of the district if there are less than 75 of them, whose land might be affected by creation of the district.

(b) The petition shall state:

- (1) the necessity, public utility, and feasibility of the proposed district;
- (2) the proposed boundaries of the district; and
- (3) the proposed name for the district. (R.S. Art. 8098.)

§ 56.015. Deposit

(a) Any person filing a petition shall deposit with the clerk of the commissioners court \$200 in cash, which shall be held by the clerk until the result of the election to create the district and issue bonds is officially announced.

(b) If the result of the election favors creating the district, the clerk shall return the deposit to the petitioners or their agent or attorney, but if the result of the election is against the creation of the district, the clerk shall pay the cost and expenses of the election from the deposit with vouchers signed by the county judge and return the balance of the deposit to the petitioners or their agent or attorney. (R.S. Art. 8099.)

§ 56.016. Time of Hearing

At the same meeting at which the petition is presented, the commissioners court shall schedule a hearing on the petition at a regular or special meeting of the commissioners court. The hearing must be held during the period beginning on the 30th day and ending with the 60th day after the day the petition is presented. (R.S. Art. 8100, sen. 1 (part).)

§ 56.017. Notice

(a) The commissioners court shall order the clerk to give notice of the time and place of the hearing on the petition by posting a copy of the petition and order of the commissioners court during the 20-day period immediately preceding the day of the hearing in five public places in the county. The clerk shall post one of the copies at the courthouse door and the four other copies within the boundaries of the proposed district.

(b) The clerk is entitled to receive five cents a mile for each mile necessarily traveled in posting the notices. (R.S. Art. 8100, sen. 1 (part), 2.)

§ 56.018. Hearing on the Petition

At the hearing on the petition, any person whose land would be affected by creating the district may appear before the commissioners court and may contest the creation of the district or contend for its creation. The person may offer testimony to show that the district is or is not necessary and would or would not be a public utility and that creating the district would or would not be feasible or practicable. (R.S. Art. 8101.)

§ 56.019. Findings

(a) At the hearing on the petition, if it appears to the commissioners court that drainage of the proposed district is feasible and practicable and is needed and would be conducive to public health or would be a public benefit or a public utility, the commissioners court shall make findings to this effect.

(b) If the commissioners court finds any of the issues in Subsection (a) of this section in the negative, it shall dismiss the petition at the cost of the petitioners.

(c) The findings of the commissioners court shall be recorded. (R.S. Art. 8103.)

§ 56.020. Engineer

(a) If the findings of the commissioners court under Section 56.019 of this code favor creating the district, the commissioners court shall appoint a competent civil engineer, who shall be entitled to as many assistants as necessary.

(b) The engineer and his assistants are entitled to the compensation and allowances for transportation, supplies, and other expenses agreed on by the engineer and the commissioners court. (R.S. Art. 8104.)

§ 56.021. Engineer's Bond

The engineer shall execute a bond for \$500 with two or more sureties approved by the commissioners court, payable to the county judge for the use and benefit of the district, conditioned on the faithful performance of his duties under this chapter. (R.S. Art. 8105.)

§ 56.022. Survey and Preliminary Plans

(a) Within the time prescribed by the commissioners court, the engineer shall make a careful survey of the land proposed to be drained and protected by levees. For the purposes of the survey, the engineer may go on land located inside or outside the district, including land located in a different county.

(b) The engineer shall obtain information regarding land and outlets inside the proposed district from the Texas Water Development Board and from other sources, and he shall cooperate with the Texas Water Development Board in the discharge of its duties.

(c) The engineer shall use the survey to make preliminary plans:

(1) locating approximately the necessary canals, drains, ditches, laterals, and levees;

(2) designating the streams and bayous necessary to be cleaned, deepened, and straightened;

(3) estimating the cost in detail of each contemplated improvement; and

(4) estimating the probable annual cost of maintaining the improvements.

(d) The engineer shall ascertain and procure proper and necessary outlets for the proposed canals, drains, and ditches necessary to drain the district.

(e) The engineer shall immediately make a report of his work to the commissioners court. (R.S. Arts. 8106, 8107.)

§ 56.023. Map

(a) The engineer shall include with his report a map showing:

(1) the beginning point and outlets of canals, drains, ditches, and laterals;

(2) the length, width, depth, and slopes of the banks of any cut or excavation and the estimated number of cubic yards of earth necessary to be removed from each; and

(3) the location and size of levees and the estimated number of cubic yards of earth necessary to construct them.

(b) The engineer will comply sufficiently with Subsection (a) of this section if he describes the boundaries and provides the other information required by that subsection on a copy of the official land office map of the county in which the proposed district is located. (R.S. Art. 8108.)

§ 56.024. Hearing on Preliminary Report

(a) At the first regular or special meeting of the commissioners court after the engineer files his preliminary report with the clerk, the commis-

sioners court shall schedule the report for hearing at a regular or special meeting, which must be held during the period beginning on the 20th day and ending with the 30th day after the day the commissioners court schedules the hearing.

(b) The clerk shall post notice of the hearing on the preliminary report in the manner provided in Section 56.017 of this code.

(c) At the hearing, any resident or nonresident freehold taxpayer whose land may be affected by the improvements, may appear and object to any of the improvements because they are not located at the proper places or they are not sufficient in number or capacity to properly drain the territory. (R.S. Art. 8109.)

§ 56.025. Changing the Preliminary Report

(a) The commissioners court may change the location of any improvement shown in the preliminary report or may add to or reduce the number of improvements. The commissioners court may order the engineer to locate any additional canals, drains, ditches, or levees for the purpose of conducting water from the land of the district or to prevent overflow of water from streams or other bodies of water onto the land of the district to be drained.

(b) The commissioners court may refer the entire preliminary report to the engineer for compliance with its orders and may require the engineer to submit a further report.

(c) If material changes or alterations are made in the preliminary report, the clerk shall give notice, and the commissioners court shall hold a hearing in the manner provided for the original preliminary report. (R.S. Art. 8110, sen. 2, 3, 4.)

§ 56.026. Adopting the Preliminary Report

If there are no objections to the preliminary report or if the commissioners court finds that objections to the report are not valid, the report shall be approved and the approval entered in the minutes. (R.S. Art. 8110, sen. 1.)

§ 56.027. Election Order

After the engineer's report is approved, the commissioners court shall order an election held in the proposed district at the earliest legal time to determine whether or not the district should be created and whether or not the district should issue bonds and levy taxes to pay for the bonds. (R.S. Art. 8111 (part).)

§ 56.028. Notice of the Election

(a) The clerk shall post notice of the election as provided in Section 56.017 of this code.

(b) The notice shall state:

- (1) the proposed creation of the district;
- (2) the amount of bonds to be issued;
- (3) the time and places the election will be held;
- (4) the propositions to be voted on; and
- (5) the purposes for which the bonds are to be issued.

(c) The amount of the bonds stated in the notice may not be greater than the engineer's estimate and the cost of additional work made necessary by changes in the preliminary report. (R.S. Art. 8112.)

§ 56.029. Conduct of Election

(a) The commissioners court shall name a polling place for each precinct or part of a precinct in the proposed district and shall appoint judges and other election officials.

(b) The ballots shall be printed to provide for voting for or against: "The creation of the drainage district and the issuance of bonds and the levy of taxes to pay for the bonds."

(c) The proposition must be approved by a two-thirds vote at the election before it will carry. (R.S. Art. 8113, sen. 1, 4, 5 (part); R.S. Art. 8111 (part).)

§ 56.030. Returns; Canvass

Immediately after the election, each presiding judge shall make and deliver the returns in the same manner as returns are made and delivered in general elections and shall deliver the ballot boxes to the county clerk, who shall keep them in a safe place until he delivers them together with the returns to the commissioners court at its next regular meeting or at a special meeting called to canvass the vote. (R.S. Art. 8115, sen. 1.)

§ 56.031. Declaration of Result

(a) If the proposition carries, the commissioners court shall declare the result and enter the result in the minutes. (R.S. Art. 8115, sen. 2.)

(b) The order of the commissioners court declaring the result shall read substantially as follows:

"_____ and _____ others having petitioned for the creation of _____ County Drainage District No. _____; an election having been held in the proposed district on _____; and a two-thirds majority of the votes cast in the election having favored creation of the district, issuance of bonds, and levy of a tax; now, therefore, the commissioners court declares that _____ County Drainage District No. _____ is created, within the following metes and bounds: _____." (R.S. Art. 8116.)

(Field Notes)

§ 56.032. Authorizing Existing Districts to Operate under Article XVI, Section 59, of the Texas Constitution

(a) Any existing district may be authorized to operate under the provisions of Article XVI, Section 59, of the Texas Constitution without change of name or impairment of obligations. (R.S. Art. 8195.)

(b) To operate under Article XVI, Section 59, of the Texas Constitution, the district shall present the petition and make the deposit required by Sections 56.014 and 56.015 of this code. The commissioners court, by order entered in its minutes, shall give notice and hold a hearing on the petition as required by Sections 56.017 and 56.018 of this code and may by order authorize the district to operate under the provisions of Article XVI, Section 59, of the Texas Constitution. (R.S. Art. 8176.)

(c) Any district operating under the provisions of this section is governed and controlled by the laws under which it was organized.

(d) Limitations imposed by Article III, Section 52, of the Texas Constitution and this chapter on debts to be incurred and taxes to be levied are not applicable to districts operating under Article XVI, Section 59, of the Texas Constitution. (R.S. Arts. 8196, 8197.)

[Sections 56.033 to 56.060 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 56.061. Creation of Board

When a district is established, the commissioners court shall appoint three directors for the district. (R.S. Art. 8118, sen. 1 (part).)

§ 56.062. Qualification of Directors

To qualify as a director, a person must

- (1) be a resident of the county in which the district is located or an adjoining county;
- (2) be a freehold taxpayer of the district; and
- (3) be a qualified elector of the county of his residence. (R.S. Art. 8118, sen. 1 (part).)

§ 56.063. Term of Office, Removal, and Succession

(a) Directors hold office for a term of two years and until their successors have qualified, and on expiration of a director's term or on resignation of a director, the commissioners court by a majority vote shall appoint a successor.

(b) The commissioners court by majority vote may remove a director from office for malfeasance in office. (R.S. Art. 8118, sen. 2, 3.)

§ 56.064. Election of Directors

(a) On petition of a majority of the real property taxpayers of a district requesting an election of district directors, the commissioners court shall immediately order an election to be held at the earliest legal time. The election shall be held as other elections under this chapter.

(b) The commissioners court shall declare the three persons receiving the highest number of votes elected, and if two or more persons tie for the third-highest vote, the commissioners court shall elect the third director from those tying for the place.

(c) On qualifying for office, directors elected under this section are the legal and rightful directors of the district within the full meaning and purpose of this law.

(d) The first elected directors of the district hold office until the next regular election for state and county officers, and subsequent directors of the district are elected every two years at the general election. (R.S. Art. 8119.)

§ 56.065. Director's Oath

Before beginning to perform his duties, each director shall take and subscribe before the county judge an oath to discharge faithfully the duties of his office without favor or partiality and to render a true account of his activities when requested by the commissioners court. The clerk of the court shall file the oath, and the oath shall be a part of the district records. (R.S. Art. 8121.)

§ 56.066. Director's Bond

Before beginning to perform his duties, each director shall execute a good and sufficient bond for \$1,000, payable to the county judge for the use and benefit of the district, conditioned on the faithful performance of his duties. (R.S. Art. 8122.)

§ 56.067. Director's Compensation

(a) The directors of any district are entitled to receive for their services not more than \$7.50 a day for the time actually engaged in the work of the district. The commissioners court shall establish the amount of compensation by order.

(b) Before the directors' accounts are approved, the directors shall submit to the commissioners court a detailed written report, under oath, showing the time actually spent in working for the district and describing the work done. The commissioners court shall audit the report and allow the amount determined by it. (R.S. Art. 8120, sen. 1, 2 (part), as amended.)

§ 56.068. Organization of Board

(a) The board of directors shall organize by electing one director as president and one director as secretary.

(b) Two directors constitute a quorum to transact all business of the district. (R.S. Art. 8123)

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, § 7, eff. May 31, 1971.

§ 56.069. Transfer of Board's Power to Commissioners Court

(a) The functions, powers, rights, and duties exercised by or relating to the board of any district may be transferred to the commissioners court of the county in which the district is wholly located, but before the transfer is made, the commissioners court and the board must pass resolutions authorizing the transfer.

(b) After the transfer is made, the commissioners court shall be the sole governing body of the district and shall exercise the functions, powers, rights, and duties transferred.

(c) The members of the commissioners court are not entitled to receive any compensation for the exercise of these functions, powers, rights, and duties. (45th Legis., 2nd C.S., Ch. 28, Sec. 5.)

§ 56.070. Treasurer

The county treasurer is the treasurer of the district. (R.S. Art. 8147, sen. 1 (part).)

§ 56.071. Treasurer's Bond

(a) The county treasurer shall execute a good and sufficient bond payable to and approved by the board, conditioned on the faithful performance of his duties as treasurer. The bond shall be in an amount equal to the amount of the bonds issued.

(b) If a district depository is selected, the county treasurer shall execute a bond conditioned on the faithful performance of his duties pursuant to the law relating to county treasurers in counties which have county depositories. (R.S. Art. 8147, sen. 1 (part), 2.)

§ 56.072. Treasurer's Compensation

The treasurer is entitled to receive for his services one-fourth of one percent of the money received by him for the account of the district and one-eighth of one percent of the money paid out by him on order of the district. The treasurer is not entitled to receive any commissions on district money he receives from his predecessor in office. (R.S. Art. 8148.)

§ 56.073. Tax Assessor and Collector

The county assessor and collector shall be charged by the commissioners court with the district's assessment rolls. (R.S. Art. 8143, sen. 1 (part).)

§ 56.074. Tax Assessor and Collector's Bond

(a) The commissioners court shall require the assessor and collector to execute an additional bond or security in any amount it considers proper and safe to secure the collection of the taxes.

(b) If the assessor and collector refuses to give the additional security within the time provided by law for this purpose, the commissioners court shall suspend him from office, and immediately after suspension, he shall be removed from office as provided by law. (R.S. Art. 8143, sen. 2, 3.)

§ 56.075. Tax Assessor and Collector's Compensation

The assessor and collector shall be allowed the same compensation for collecting the taxes of the district that is allowed for collecting other taxes. (R.S. Art. 8143, sen. 1 (part).)

§ 56.076. Board of Equalization

The commissioners court shall serve as the board of equalization for the district, and laws governing boards of equalization for state and county taxing purposes shall govern the district board. (R.S. Art. 8140, sen. 2.)

§ 56.077. Separate Assessor and Collector, and Board of Equalization

(a) After a district is created and on the petition of 25 resident freeholders of the district, the commissioners court may order an election to determine whether or not the district will have a separate tax assessor and collector and board of equalization to assess, collect, and equalize taxes. Notice of the election shall be given as in the original election.

(b) If the proposition is approved by a two-thirds vote, the commissioners court shall appoint a suitable person as assessor and collector, and the appointee shall execute a bond and exercise the same powers and perform the same duties as the county assessor and collector. The board shall exercise the powers relating to equalizing taxes conferred on the commissioners court by this chapter.

(c) The general law relating to assessing, collecting, and equalizing taxes applies to assessing, collecting, and equalizing district taxes. (R.S. Art. 8145.)

§ 56.078. District Engineer

The board shall appoint a competent civil engineer, who may appoint necessary assistants. (R.S. Art. 8124, sen. 1.)

§ 56.079. Engineer's and Assistant's Compensation and Expenses

The engineer and his assistants are entitled to receive the pay, transportation allowance, supplies, and other things agreed on by the engineer and the board and approved by the commissioners court. (R.S. Art. 8124, sen. 2.)

§ 56.080. District Lawyer

The board may employ a lawyer

(1) to prepare contracts for the district;

(2) to conduct proceedings for the district in and out of court;

and

(3) to be the board's legal adviser. (R.S. Art. 8173 (part).)

§ 56.081. Lawyer's Compensation

The lawyer is entitled to receive the fees agreed on by him and the board and approved by the county judge. The board shall draw warrants to pay for the legal services. (R.S. Art. 8173 (part).)

§ 56.082. Hearing; Powers of the Commissioners Court

(a) Except as otherwise provided in this chapter, the commissioners court has exclusive jurisdiction to hear and determine

(1) contests and objections to creating a district;

(2) matters relating to creating a district; and

(3) all proceedings of a district after it is organized.

(b) The commissioners court may adjourn a hearing from day to day, and the judgment of the commissioners court rendered under Subsection (a) of this section is final. (R.S. Art. 8102.)

§ 56.083. Court Actions

(a) A district through its board may sue and be sued in the courts of this state in the name of the district, and the courts of this state shall take judicial notice of the establishment of all drainage districts. (R.S. Art. 8174.)

(b) Only suits in the name of the state by the attorney general on his own motion or on motion of any affected party showing good cause may be brought in courts of this state to enjoin the formation of a district or to contest the validity of any district or its bonds. (R.S. Art. 8175.)

[Sections 56.084 to 56.110 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**Section 56.111. Control and Repair of District Improvements**

The board may control and supervise the construction and maintenance of canals, drains, ditches and levees, and other improvements of the district and shall keep them in repair. (R.S. Art. 8154.)

§ 56.112. Report of the Board

(a) The board shall make semiannual reports of their actions, including a financial statement showing receipts and disbursements of funds subject to orders of the board.

(b) The board's report shall state in detail

- (1) the kind, amount, and character of work done by the district;
- (2) the cost of work done by the district;
- (3) the amounts paid out in orders of the board;
- (4) the purposes for which the amounts were paid;
- (5) the persons to whom the amounts were paid;
- (6) dates, amounts, and details of receipts and disbursements;

and

(7) other data to show the condition of improvements made under this chapter.

(c) The board shall file the report with the county clerk on or before the first day of January and July of each year and shall publish a copy of the report once a week for two consecutive weeks immediately following the first day of January and July of each year in a newspaper published in the county. (R.S. Art. 8172.)

§ 56.113. Authority to go on Land Inside and Outside the District

The board and the engineer, together with necessary teams, help, tools, and implements, may go on land located inside and outside the district to examine the land, to locate canals, drains, ditches, levees, and necessary outlets and to make plans, surveys, maps, and profiles. (P.C. Art. 852, sen. 1.)

§ 56.114. Resisting District Officer

Any person who wilfully prevents or prohibits any officer from entering land for the purposes stated in Section 56.113 of this code, upon conviction, is punishable by a fine of not more than \$25 for each day he prevents or hinders the officer. (P.C. Art. 852, sen. 2.)

§ 56.115. Duties of the Engineer

(a) The engineer shall make a map of the district showing:

- (1) the boundary lines of the district;
- (2) the original surveys within the boundaries of the district; and

(3) the number of acres in an original survey which are included in the district if the boundary lines of the district cross the original survey.

(b) The engineer shall make maps and profiles of the canals, drains, ditches, and levees located in the district and their outlets extending beyond the boundaries of the district.

(c) A copy of the land office map of the county which shows the name and number of each survey and the area or number of acres within the district is sufficient to comply with the requirement for a map of the district, and any recognized map of a city or town in the district is sufficient to comply with the requirement for a map of that city or town. (R.S. Art. 8125.)

§ 56.116. Maps and Estimates

(a) The map and profile shall include the relation that each canal, drain, ditch, or levee bears to each tract of land through which it passes and the shape into which the canal, drain, ditch, or levee divides each tract.

(b) If any canal, drain, ditch, or levee cuts off any tract containing less than 20 acres of land, the map shall show:

- (1) the number of acres divided from the tract;
- (2) the number of acres in the whole tract;
- (3) the shape of the small tract; and

(4) the relation of the small tract to the canal, ditch, drain, or levee.

(c) The profile may show the number of cubic yards necessary to be excavated to make each canal, drain, or ditch and to build any levee located in the district and may give the estimated cost of each.

(d) When the map, profile, and estimates are completed, the engineer shall sign them in his official capacity and file them with the clerk of the commissioners court. (R.S. Art. 8126.)

§ 56.117. Duty to Construct Improvements

Improvements included in the engineer's report and adopted by the commissioners court shall be constructed. (R.S. Art. 8155, sen. 2.)

§ 56.118. Right-of-Way

The board may acquire by gift, grant, purchase, or condemnation the necessary rights-of-way for all canals, drains, ditches and levees, and other necessary improvements. If the rights-of-way are acquired by purchase, the commissioners court must approve it. (R.S. Art. 8152.)

§ 56.119. Eminent Domain

(a) Any district may exercise the power of eminent domain to condemn and acquire the right-of-way over and through public and private lands necessary for making canals, drains, levees, and improvements in the district and for making necessary outlets to any county in the state. A district which is not operating under Article XVI, Section 59, of the Texas Constitution may not condemn property used for cemetery purposes. No district may condemn right-of-way through any part of any incorporated city without the consent of the lawful authorities.

(b) Eminent domain proceedings shall be in the name of the district and under the direction of the board, and expenses arising from the proceedings shall be paid from the construction and maintenance fund.

(c) An appeal from the finding and assessment of damage made by commissioners appointed for that purpose shall not suspend work of the board in providing drainage. (R.S. Art. 8151.)

§ 56.120. Railroad Culverts

(a) At the expense of the district, the board may construct necessary bridges and culverts across or under a track or right-of-way of a railroad to enable the district to construct and maintain a necessary canal, drain, or ditch.

(b) Before the board constructs a bridge or culvert, the board shall give notice to the railroad authorities authorized to build or construct bridges and culverts and shall allow the railroad 30 days to build the bridge or culvert at its own expense and according to its own plans.

(c) Bridges or culverts shall be constructed so they will not interfere with the free and unobstructed flow of water passing through the canals and drains and shall be placed at points designated by the engineer. (R. S. Art. 8160.)

§ 56.121. Road Culverts

The board shall build necessary bridges and culverts across or over canals, drains, ditches, laterals, and levees which cross a county or public road and shall pay for the construction with funds of the district. (R.S. Art. 8161.)

§ 56.122. Constructing Bridges and Culverts in Certain Counties

(a) If it is necessary to build a bridge or culvert across or over a state highway located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, the board may construct or assist in constructing the bridge or culvert.

(b) After the bridge or culvert is constructed, the board may pay or may join with any county or other governmental agency or subdivision to pay the expenses of making necessary and needed repairs. The expenses shall be paid from the funds of the district. (44th Legis., Ch. 117, Sec. 1, sen. 2, 3, and Sec. 6, sen. 1.)

§ 56.123. Change in Plans Without Additional Expenditures

(a) After the commissioners court authorizes bonds to be issued, the board may make changes in the district or its improvements which will be an advantage to the district but which will not increase the cost of the proposed work beyond the amount of bonds authorized.

(b) The board may make the changes by entering on their minutes a notation of the changes, with the district maps and profiles showing the changes. Notice of the changes shall be given by publishing the notation with the book and page number of the minutes for two consecutive weeks in a newspaper of general circulation published in the English language in the county in which the district is located. (R.S. Art. 8128.)

§ 56.124. Change in Plans With Additional Expenditures

(a) If the board decides that changes or additions in the preliminary survey would be of advantage to the district but would necessitate issuing additional bonds of the district, it shall certify to the commissioners court the need for additional bond authorization and transmit the certification with maps and profiles prepared by the district engineer showing the changes and their estimated cost.

(b) At the first regular meeting after the documents are filed, the commissioners court shall give notice of an election to determine whether or not the changes and improvements should be made and shall order the election held within the time and the returns made as provided in the original election.

(c) If two-thirds of the electors of the district vote in favor of the proposition, the board shall enter the approval in the records and shall order the bonds issued as in the manner provided for issuance of the original bonds. (R.S. Art. 8129.)

§ 56.125. Additional Improvements

(a) After completion of improvements, including bridges and culverts, and after payment of all expenses, if surplus money or bonds remain to the credit of the district, the board may order the engineer to make a detailed report of additional or supplemental drains, ditches, levees, or other surface drainage improvements, including tile drainage, which are needed by the district. The engineer shall make the report and the board shall act on the report in the manner provided in this chapter for the initial report of the engineer. (R.S. Art. 8162, sen. 1, 2.)

(b) After the engineer's report is approved or modified by the commissioners court, the court shall order an election to be held in the district at the earliest legal time. The only proposition that may be submitted at the election is whether or not the district will construct additional improvements and pay for them with funds currently available. A majority of those persons voting at the election must approve the proposition for it to carry.

(c) Notice of the election shall be given, election officials appointed, returns made and canvassed, and the result declared as provided in Sections 56.027-56.031 of this code. The notice of election shall state:

- (1) the character and scope of the proposed improvements;
- (2) the estimated cost of the proposed improvements; and
- (3) the time and place for holding the election. (R.S. Art. 8163.)

(d) The provisions of this chapter relating to awarding contracts, constructing improvements, and the authority of the board and the commissioners court to award contracts and construct improvements apply as far as applicable to constructing and paying for additional improvements. (R.S. Art. 8164.)

(e) The estimated cost of the additional improvements may not be more than the amount of surplus money or bonds to the credit of the district. (R.S. Art. 8162, sen. 3.)

§ 56.126. Changes, Additions, and Improvements

When the board determines that a necessity exists, it may make changes in, additions to, and improvements in the drainage system of the district and shall pay for the changes, additions, and improvements with funds collected under the provisions of Section 56.242 of this code. (50th Legis., Ch. 165, Sec. 1.)

§ 56.127. Maintenance Report

(a) On or before the first day of July of each year, the board shall file with the commissioners court a detailed maintenance report. The report shall include:

- (1) the condition of improvements previously made in the district;
- (2) an estimate of the probable cost of maintenance and repairs during the next year;
- (3) an inventory of funds, effects, property, and accounts belonging to the district; and
- (4) a list of lawful demands, debts, and obligations of the district.

(b) The board shall verify the report, and the commissioners court shall carefully investigate it before any taxes are levied under Section 56.241 of this code. (R.S. Art. 8137.)

§ 56.128. Injuring Drainage Canal or Ditch

Any person who wilfully fills up, cuts, injures, destroys, or impairs the usefulness of any canal, drain, ditch, watercourse, or other work constructed, repaired, or improved by a district to drain and protect from overflow of water, upon conviction is punishable by confinement in the county jail for not more than two months or by a fine of not more than \$100. (P.C. Art. 1356.)

§ 56.129. Bid Procedure

(a) Before awarding any contracts for construction or necessary work, the board shall advertise for bids once a week for four consecutive weeks in one or more newspapers of general circulation in the state and shall post notice that the board is taking bids for at least 25 days at five public places in the county, including one copy posted at the courthouse door and at least two copies posted elsewhere in the district. (R.S. Art. 8155, sen. 1 (part).)

(b) On application, the board shall furnish to any person who desires to bid on construction work advertised under Subsection (a) of this section a copy of the engineer's report showing the locations, profiles, and estimates on the work.

(c) Each bid shall be in writing, sealed, and accompanied by a certified check for five percent of the total amount of the bid and shall be delivered to the chairman of the board. If a bidder whose bid is accepted by the district refuses to enter into a proper contract with the district, the bidder shall forfeit the certified check which accompanied his bid. (R.S. Art. 8156, sen. 1, 2.)

(d) The board shall award the contract to the lowest bidder and may reject any bid it considers to be too high. The contracts may be awarded separately or together. (R.S. Art. 8155, sen. 1 (part), 2; R.S. Art. 8156, sen. 3.)

§ 56.130. Requisites of a District Contract

Each contract shall be in writing, signed by the contractor and the board, and approved by the county judge, and a copy of the contract shall be filed with the county clerk. (R.S. Art. 8158.)

§ 56.131. Contract Payments

(a) On completion of any contract except a contract awarded on a partial payment plan, the board shall draw a warrant on the treasurer in favor of the contractor or his assignee for the amount of the contract price.

(b) To obtain more favorable contracts, the board may advertise and contract for work to be paid for in partial payments as the work progresses, but the aggregate amount of the partial payments may not be more than 75 percent of the total amount to be paid under the contract.

(c) The engineer shall make a certified report showing the amount of work completed under any contract, and payment shall not be made for incomplete work. (R.S. Art. 8166.)

§ 56.132. Contractor's Bond

The contractor shall execute a bond for the amount of the contract price, payable to the board and approved by the board and the county judge, conditioned on the faithful performance of the obligations, agreements, and covenants in the contract and that in the event of default, the contractor will pay to the district damages sustained as a result of the default. (R.S. Art. 8157.)

§ 56.133. Duties of the Engineer

(a) The engineer shall furnish to the contractor a sectionized profile of the contract work. The profile shall show:

- (1) the depth, width, and slope of canals, drains, ditches, and levees;
- (2) the number of cubic yards of earth to be removed; and
- (3) other work to be done by the contractor.

(b) The contractor shall do the work under the supervision of the engineer, who shall indicate to the contractor the points at which the laterals shall intersect the main canal.

(c) The contractor may not deposit earth at a place at which it will interfere with constructing laterals or other improvements in the district or building bridges or other improvements on the public roads.

(d) After the work is completed under the contract, the engineer shall make a detailed report to the board showing whether or not the contract has been complied with fully, and if not, the extent of noncompliance. (R.S. Art. 8159.)

§ 56.134. Inspection of Work

The board shall inspect any work done under contract as the work progresses. (R.S. Art. 8165.)

§ 56.135. Interest in Drainage Contract

A county judge, county commissioner, drainage commissioner, or drainage engineer who becomes interested in any contract for construction of any work by the district or in any fee paid by the district from which he will receive money, consideration, or other thing of value, upon conviction is punishable by confinement in the county jail for not less than six months nor more than one year. (P.C. Art. 376.)

§ 56.136. Purchases of and Contracts for Less Than \$50 by Districts in Certain Counties

(a) On requisition signed by at least two directors, the board of any district located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, may make purchases or contracts in any amount of not more than \$50.

(b) In cases of emergency, the board does not have to take bids.

(c) Before the purchase or contract is made, the commissioners court shall issue the requisition in triplicate with copies to be delivered to the person from whom the purchase is being made or with whom the contract is being made and to the county auditor. A copy also shall be filed with the board. (44th Legis., Ch. 117, Sec. 2, and Sec. 6, sen. 1.)

§ 56.137. Purchases of and Contracts for More Than \$50 But Less Than \$500 by Districts in Certain Counties

(a) If purchases or contracts to be made by any district located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, are in an amount more than \$50 but not more than \$500, the district shall ask for sealed bids from at least three persons and shall accept as many more bids as are offered. It is not necessary to advertise for sealed bids.

(b) The bids shall be based on written specifications filed with the county auditor before the beginning of the 48-hour period immediately preceding the time for the bidding to open.

(c) The board shall award the contract to the lowest and best bidder, but before the contract is executed or the supplies furnished, at least two of the directors shall issue to the contractor a requisition. A copy of the requisition shall be filed with the county auditor. (44th Legis., Ch. 117, Sec. 3, and Sec. 6, sen. 1.)

§ 56.138. Expenditures Exceeding \$500 by Districts in Certain Counties

(a) If any district located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, plans to spend more than \$500 on any contract or purchase, the district shall prepare and file with the county auditor specifications covering the material or supplies to be purchased or the work to be performed.

(b) The county auditor shall advertise for bids once a week for two consecutive weeks in a newspaper published in the county in which the district is located. The advertisement shall include the time and place

for opening the bids and the place at which the specifications may be obtained.

(c) Each bidder shall include with his bid a certified check on a Texas bank for five percent of the amount of the bid, conditioned that the successful bidder will enter into a contract, and a bond in an amount equal to the amount of the contract executed by a surety company authorized to do business in Texas.

(d) At an open meeting, the commissioners shall award the contract to the lowest and best bidder. The contract shall be made in writing, and together with the bond and original bids shall be filed in the office of the county auditor as part of the records of his office.

(e) Before any supplies are furnished or delivered or any work performed, at least two directors of the district shall issue and file with the county auditor a requisition covering the contract or purchase. The contract or purchase is not binding until the requisition is issued and filed. (44th Legis., Ch. 117, Sec. 4, and Sec. 6, sen. 1.)

§ 56.139. County Auditor's Endorsement

Before a requisition is issued or a contract approved under Section 56.136, 56.137, or 56.138 of this code, the county auditor must endorse on the requisition or contract his certificate that the contract is made or the requisition is authorized in conformity with law and that funds are available or will be available to make payment when due. (44th Legis., Ch. 117, Sec. 5.)

§ 56.140. Public and Private Improvements

(a) Canals, drains, ditches, and levees which are constructed by a district and watercourses which are cleaned or constructed by a district are the public property of the district.

(b) A person who owns land in the district may drain into one or more of the public drains, and at his own expense, the landowner may make drains according to the natural slope of the land through other lands intervening between his land and the nearest public drain or watercourse or along any public highway.

(c) Before constructing any drains, the landowner shall notify the board of his intention to construct a drain through another person's land or along a public highway, and the directors shall go on the premises and acting as a jury of view shall determine the place for constructing the drain. (R.S. Art. 8153.)

§ 56.141. Outside Drains

(a) Before a person artificially drains adjacent land located outside the district into the canals, drains, or ditches of the district, the person must submit a written application to the board, and the board must grant permission to make the connections. The application shall include the width, depth, and length of the connecting drains and ditches. (R.S. Art. 8167.)

(b) When the application is filed with the board, the engineer shall estimate the quantity of water which the connecting drains or ditches would probably empty into the established canals or drains and shall indicate whether or not the established canals or drains have sufficient capacity to carry the excess water without risk or damage to the canals, drains, or adjacent territory. The engineer shall report to the board the result of his examination and his estimate. (R.S. Art. 8168.)

(c) Unless an agreement is reached with the applicants, the commissioners may authorize the connection on condition that the applicant first pay to the construction and maintenance fund an amount of money which bears the same ratio to the cost of the original canal or drain from the

point of connection to its outlet as the water to be emptied into the canal or drain by the connecting drains bears to the water then flowing into and being carried by the original canal or drain as estimated by the engineer. (R.S. Art. 8169.)

§ 56.142. Enlargement of Canals, Drains, and Other Outlets

(a) If the engineer's report indicates that the capacity of the canals, drains, or outlets of the district are insufficient to carry the excess water that would be discharged into them by connecting drains or that the additional discharge of water will endanger the canals and drains or the lands and property adjacent to them, the commissioners court in the county in which the district is located may give the applicant permission to construct connecting drains and secure the desired outlet on condition that the applicant make necessary enlargements of the canals and drains of the district at the applicant's own expense. The increased capacity of the canals of the district shall be sufficient to carry any increase of water caused by the connection without danger to canals and drains or lands adjacent to them. (R.S. Art. 8170.)

(b) The engineer shall supervise and direct the enlargement of the canals and drains, and after the work is completed to his satisfaction, the engineer shall report to the commissioners court under his official certificate. The report shall show:

- (1) the kind of work done;
- (2) the extent of the work;
- (3) the new capacity to be sufficient to carry excess water from the connecting drain;
- (4) the number of days spent by the engineer supervising the work; and
- (5) the amount due to the engineer for his services.

(c) On approving the engineer's report, the commissioners court shall issue an order authorizing the connections to be made with the canals and drains on payment of the amount due to the engineer as shown by the engineer's report and shall order the applicant to pay the engineer's salary. (R.S. Art. 8171.)

§ 56.143. Contract for Improvements with the United States

(a) Any district which is converted under Section 56.032 of this code and which lies wholly within one county may enter into contracts with the United States, including the Bureau of Reclamation of the Department of Interior, to construct improvements.

(b) The board must approve the project, plans and specifications, and methods of constructing or reconstructing the improvements.

(c) After approval, the board may execute a contract for a specified number of years or until the plans or programs of the district are completed and shall pay the obligations incurred under the contract by issuing bonds that are approved by the voters in the manner provided for issuing other bonds of the district. The board shall deliver the bonds to the United States. (55th Legis., Ch. 105, Sec. 1, subsec. (5).)

[Sections 56.144 to 56.180 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Section 56.181. Duties of the Treasurer

(a) The county treasurer shall open an account for each district and shall keep an accurate account of money received by him and paid out by him for each district.

(b) The county treasurer shall pay out money only on vouchers signed by the board and countersigned by the county judge, and he shall keep a file of all orders for payment of money.

(c) On request of the board or the commissioners court, the county treasurer shall render a correct account of matters relating to the financial condition of the district. (R.S. Art. 8146.)

§ 56.182. District Funds

(a) The construction and maintenance fund consists of money, effects, property, and proceeds received by the district from any source except that portion of tax collections necessary to pay principal and interest on bonded indebtedness.

(b) The interest and sinking fund consists of that portion of tax collections necessary for paying principal and interest on bonded indebtedness, and this fund may be invested for the benefit of the district in bonds and securities approved by the attorney general.

(c) Each fund shall be held for the purpose for which it was created, and if money is improperly paid from either fund, the commissioners court may have the county treasurer transfer money in the two funds to restore the fund which was improperly used. (R.S. Art. 8150, sen. 1 (part), 2, 3.)

§ 56.183. Payment of Expenses, Debts, and Obligations of the District

After any district is established, legal and just expenses, debts, and obligations, except bonded indebtedness, arising and created after the filing of the petition to create the district and necessarily incurred in creating, establishing, operating, and maintaining the district shall be paid from the construction and maintenance fund. (R.S. Art. 8150, sen. 1 (part).)

§ 56.184. District Depository

(a) The board may provide for a district depository under the laws relating to the designation of a county depository and may exercise the same powers with relation to district funds that are exercised by the commissioners court in designating a county depository.

(b) The depository shall execute a good and sufficient bond, approved by the board, as provided by law for county depositories. (R.S. Art. 8149.)

[Sections 56.185 to 56.200 reserved for expansion]

SUBCHAPTER F. ISSUANCE OF BONDS

Section 56.201. Authority to Issue Bonds

Any district may issue bonds as provided in this chapter to pay for drainage improvements. (R.S. Art. 8097, sen. 3.)

§ 56.202. Issuance of Bonds

When maps, profiles, and estimates are filed, the commissioners court shall issue an order directing the issuance of bonds sufficient to pay for proposed improvements together with necessary, actual, and incidental expenses. The bonds may not be issued in an amount greater than the amount specified in the order and notice of election, and in districts operating under Article III, Section 52, of the Texas Constitution, the bonds may not be issued in an amount greater than one-fourth of the assessed valuation of the real property of the district. (R.S. Art. 8127.)

§ 56.203. Record Book for Bonds

(a) Before any bonds are issued, the commissioners court shall provide a well-bound book in which the county clerk shall keep a record of:

- (1) all bonds which have been issued;
- (2) the numbers of the bonds;

- (3) the amount of the bonds;
- (4) the rate of interest on the bonds;
- (5) the date of issuance of the bonds;
- (6) the date on which the bonds are due;
- (7) the place where the bonds are payable;
- (8) the amount received for the bonds;
- (9) the annual rate of assessment to pay interest on and provide a sinking fund for the bonds; and
- (10) the payment of each bond.

(b) The county clerk shall keep the book open at all times for public inspection by district taxpayers and bondholders.

(c) The county clerk is entitled to receive for recording district bonds and other instruments the same fees allowed by law for recording other similar records. (R.S. Art. 8130.)

§ 56.204. Bonds: Requisites

(a) Bonds shall be issued in the name of the district, signed by the county judge, and attested by the county clerk, and each bond shall have the seal of the commissioners court affixed to it.

(b) The bonds shall be issued in denominations of not less than \$100 nor more than \$1,000 and shall bear interest which is payable annually or semiannually.

(c) The terms of the bonds shall include the time, places, manner, and conditions of payment and the rate of interest determined and ordered by the commissioners court.

(d) The bonds shall be paid not later than 40 years from the date they are issued. (R.S. Art. 8131.)

§ 56.205. Bonds: Approval

(a) Before any bonds are offered for sale, the district shall submit to the attorney general

- (1) a copy of the bonds;
- (2) a certified copy of the commissioners court order levying a tax to pay interest and create a sinking fund;
- (3) a statement of the district's total bonded indebtedness including the value of the bonds proposed to be issued and the value of taxable property in the district as shown by the last official assessment of the county; and
- (4) other information the attorney general requires.

(b) The attorney general shall examine the bonds carefully and shall certify them if he finds that they conform to the constitution and laws of this state and are valid and binding obligations of the district. (R.S. Art. 8132.)

§ 56.206. Bonds: Registration

(a) When the attorney general approves the bonds, the comptroller shall register them in a book kept for that purpose and shall record the attorney general's certificate for use in possible future litigation. After the bonds are registered, they are prima facie valid and binding obligations in any action, suit, or proceeding.

(b) In a suit to enforce collection of the bonds, the attorney general's certificate or a certified copy of it shall be admitted and received in evidence as prima facie proof of the validity of the bonds and attached coupons, and the only defense against the validity of the bonds is forgery or fraud. (R.S. Art. 8133.)

§ 56.207. Bonds: Sale

(a) When the bonds are registered, the county judge, under the direction of the commissioners court, shall advertise and sell the bonds on the best terms and for the best price possible.

(b) The county judge shall pay to the county treasurer all money from the sale of the bonds as it is received, and the county treasurer shall place the money in the construction and maintenance fund to the credit of the district.

(c) The county judge is entitled to receive one-half of one percent of the amount received from the sale of bonds sold by him as payment for his services. (R.S. Art. 8134.)

§ 56.208. Bond of County Judge

(a) After the bonds are registered, the county judge shall immediately execute a good and sufficient bond in an amount not less than the amount of the bonds issued, payable to and approved by the board, conditioned on the faithful discharge of his duties.

(b) If the bond is executed by a satisfactory surety company, the district may pay a reasonable amount as premium on the bond. The premium shall be paid from the construction and maintenance fund on presentation to the board of a bill for the premium. The board may deduct the premium from the commissions allowed the county judge on the sale of bonds.

(c) If there is any controversy as to the reasonableness of the amount claimed as premium, the controversy may be settled by any court of competent jurisdiction. (R.S. Art. 8135.)

§ 56.209. Use of Unsold Bonds for Maintenance Purposes

If any bonds remain unsold which are not required to complete improvements, the commissioners court may enter its consent on the public record to sell the bonds and place the proceeds in the construction and maintenance fund for use in accomplishing the purposes stated in Section 56.242 of this code. (R.S. Art. 8139.)

§ 56.210. Refunding Bonds

(a) With the consent of the bondholders, a district may refund outstanding bonds by issuing new coupon bonds in their place.

(b) Interest is shown by coupons attached to the bonds. The commissioners court may pay the interest on the bonds annually or semiannually.

(c) The commissioners court may pay the refunding bonds serially, or in any other manner they choose, but in districts which are not operating under Article XVI, Section 59, of the Texas Constitution, it shall pay the bonds not later than 40 years from the date the bonds are issued.

(d) The district shall issue the bonds in denominations of \$100 or a multiple of \$100, and shall levy a tax sufficient to meet the payment of principal and interest of the refunding bonds before the bonds are delivered.

(e) The commissioners court shall issue refunding bonds in the manner provided for other district bonds, and shall deduct any sum on hand to the credit of any sinking fund account in ascertaining the amount of refunding bonds to be issued. This sum shall be applied to the payment of the outstanding bonds.

(f) The commissioners court shall not issue refunding bonds until they are approved by the attorney general and registered by the comptroller. The comptroller shall not register the refunding bonds until the old bonds being replaced are presented to him for cancellation. After the comptroller registers the new bonds, he shall cancel the old bonds and interest

coupons and deliver the new bonds to the proper bondholders. The district may present the old bonds for cancellation in installments, and the comptroller may register and deliver a like amount of the new bonds.

(g) In a district operating under Article XVI, Section 59, of the Texas Constitution, if the holders of outstanding bonds do not consent to the exchange of their bonds for refunding bonds, the refunding bonds may be sold and the proceeds applied to the purchase of the outstanding bonds when they become payable under an option of prepayment contained in the bonds or when the bondholders will accept payment. (R.S. Art. 8136a; R.S. Art. 8197a, as amended.)

§ 56.211. Refunding Bond Election

(a) If indebtedness to be refunded includes obligations other than voted bonds, in any district operating under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, before the refunding bonds may be issued, a majority of the electors of the district voting at an election called for that purpose must vote in favor of issuing the refunding bonds and levying a tax to pay for the bonds.

(b) The commissioners court shall call the election and the clerk of the court shall give notice of the time and places for holding the election.

(c) The notice shall be signed by the clerk and shall

- (1) state the purpose of the election;
- (2) state the proposition to be voted on;
- (3) define the election precincts;
- (4) prescribe the polling places in the district; and
- (5) list the names of the election officers.

(d) The notice shall be published once a week for three consecutive weeks in a newspaper of general circulation in the county in which the district is located, but if a newspaper is not published in the county, the notice shall be published in the nearest county. The first publication shall be at least 20 days before the day of the election. (45th Legis., 2nd C.S., Ch. 28, Sec. 3, sen. 1, 2, 3, 4, 5.)

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, § 8, eff. May 31, 1971.

§ 56.212. Approval and Issuance of Refunding Bonds

(a) If the commissioners court declares the result of the election under Section 56.211 of this code to favor the issuance of refunding bonds and the levy of a tax to pay for the bonds, refunding bonds with the seal of the commissioners court affixed to them may be issued in the name of the district. The bonds shall be signed by the county judge, attested by the county clerk, and registered by the county treasurer.

(b) The bonds together with the record relating to them shall be submitted to the attorney general for his approval.

(c) When the attorney general approves the bonds, they shall be delivered to the comptroller who shall register them and deliver them in exchange for or on release of the obligations being refunded at the time, in the manner, and in the amounts prescribed in the order of the commissioners court. If the obligations being refunded are evidenced by outstanding securities, the comptroller shall cancel the outstanding securities concurrently with the registration and delivery of the bonds.

(d) When the refunding bonds are approved by the attorney general and registered and delivered by the comptroller, the bonds are valid and binding obligations of the district and are incontestable for any cause. (45th Legis., 2nd C.S., Ch. 28, Sec. 4.)

SUBCHAPTER G. TAXATION PROVISIONS

Section 56.241. Levy of Taxes to Pay for Bonds

After bonds are authorized at an election, the commissioners court shall have taxes annually assessed and collected on all property in the district sufficient to pay interest and principal on the bonds. Taxes collected under this section shall be placed in the interest and sinking fund. (R.S. Art. 8136.)

§ 56.242. Maintenance Tax

(a) At the same time that taxes are levied to pay bonded indebtedness, the commissioners court shall have a tax assessed and collected on district property sufficient to maintain, repair, and preserve district improvements and to pay legal debts, demands, and obligations of the district, but in districts operating under Article III, Section 52, of the Texas Constitution, the tax may not be in an amount greater than one-half of one percent of the total assessed valuation of the district for that year.

(b) Taxes collected under this section shall be placed in the construction and maintenance fund. (R.S. Art. 8138.)

§ 56.243. Powers of the Assessor and Collector

Unless this chapter makes some other provision, the county tax assessor and collector has the same powers and is governed by the same rules and proceedings in assessing and collecting district taxes that are provided for assessing and collecting state and county taxes. (R.S. Art. 8140, sen. 1.)

§ 56.244. Assessment of Taxes

(a) On order of the commissioners court, the assessor and collector shall assess all property in the district and list the assessed property in the books provided by the commissioners court and shall return the books at the time he returns the state and county tax rolls for correction and approval.

(b) The commissioners court shall provide necessary additional books for the assessor and collector and the county clerk to use for recording assessments and listing all property in the district and shall charge the cost of the books to the district.

(c) If the commissioners court finds the district tax rolls to be correct, it shall approve the rolls and direct the county clerk to issue a warrant to the assessor and collector, payable from district funds. The commissioners court shall pay the assessor and collector an amount they consider proper.

(d) If the assessor and collector fails or refuses to comply with the order to assess district property, the commissioners court shall suspend him from the further discharge of his duties, and he shall be removed from office in the manner provided for removing county officers. (R.S. Art. 8142.)

§ 56.245. Collection of Taxes

(a) The commissioners court may fix the time and determine the date taxes become due, but if the date and time are not designated, the taxes shall become due at the same time as state and county taxes.

(b) Taxes authorized by this chapter are a lien on the property for which they are assessed. Any person who fails to pay the taxes when due is subject to the penalty for failure to pay state and county taxes at maturity. (R.S. Art. 8141.)

§ 56.246. **Delinquent Taxes**

(a) The assessor and collector shall make a certified list of all property on which tax has not been paid and deliver the list to the commissioners court.

(b) The commissioners court shall collect the tax by selling the property to collect state and county taxes, and the board may purchase any of this property for the benefit of the district. (R.S. Art. 8144.)

§ 56.247. **Levying Taxes on the Benefit Basis**

A district operating under Article XVI, Section 59, of the Texas Constitution, may levy taxes on the benefit basis, which means the levy of a tax on an equal or uniform basis or rate on each acre of land in the district. (42nd Legis., Ch. 311, Sec. 1.)

§ 56.248. **Authorizing Taxation on the Benefit Basis for Newly Created Districts**

(a) In a petition to create a district under Article XVI, Section 59, of the Texas Constitution, the petitioner may request that taxes in the proposed district be levied on the benefit basis, and the notice of hearing on the petition shall state this request in addition to other information required by Section 56.017 of this code.

(b) At the hearing on the petition, the commissioners court shall consider whether or not it will be fair and equitable to levy taxes on the benefit basis, and any person who would be affected by creation of the district may appear before the commissioners court and support or oppose the levy of taxes on the benefit basis.

(c) If the commissioners court finds that creation of and drainage of the district is feasible and practicable under Section 56.019 of this code, the commissioners court shall further determine whether or not the levy of taxes on the benefit basis would be fair and equitable to the landowners in the district.

(d) If the commissioners court determines that levying taxes on a benefit basis would not be fair and equitable to the landowners, the order of the commissioners court shall state these findings, and if the district is created, district taxes shall be levied on an ad valorem basis.

(e) If the commissioners court favors creation of the district and determines that levying taxes on the benefit basis will be fair and equitable to the landowners, the order of the commissioners court shall include these findings and an election shall be called to create the district and levy taxes on the benefit basis.

(f) Findings of the commissioners court relating to the basis on which taxes will be levied are final and conclusive on all parties. (42nd Legis., Ch. 311, Sec. 2, sen. 1, 2, (part), 3.)

§ 56.249. **Authorizing Taxation on the Benefit Basis for Existing District**

(a) A district operating under Article XVI, Section 59, of the Texas Constitution, may levy taxes on the benefit basis as provided in this section.

(b) Any person may present to the commissioners court a petition, signed by 75 of the resident freehold taxpayers of the district whose land would be affected or by one-third of the freehold resident taxpayers of the district whose land would be affected if there are less than 75 in the district, requesting that taxes of the district be levied on the benefit basis and showing that the levy of taxes on the benefit basis will be fair and equitable to all landowners in the district.

(c) At the same meeting at which the petition is presented, the commissioners court shall schedule a hearing on the petition for either a regular meeting or a special meeting called for that purpose to be held dur-

ing the period beginning on the 30th day and ending with the 60th day after the day the petition is presented.

(d) The commissioners court shall order the clerk to give notice of the time and place of the hearing by posting a copy of the petition and the order of the commissioners court at five public places in the county during the 20-day period immediately preceding the day of the hearing. The clerk shall post one of the copies at the courthouse door and the other four copies at four places within the boundaries of the district, and the district shall pay the clerk \$1 for each notice he posts and five cents a mile for each mile traveled in posting the notices.

(e) At the hearing, any person whose land would be affected may appear before the commissioners court and may support or oppose the levy of taxes on the benefit basis and may offer testimony to show whether or not the levy of taxes on the benefit basis will be fair and equitable to landowners in the district. The commissioners court has exclusive jurisdiction to hear and determine this issue and matters relating to it and has exclusive jurisdiction in all subsequent proceedings. The commissioners court may adjourn the hearing from day to day, and judgments of the commissioners court are final.

(f) If the commissioners court finds that levying taxes on the benefit basis will not be fair and equitable to landowners in the district, an order shall be entered dismissing the petition, and the district shall continue to levy taxes on an ad valorem basis, but if the commissioners court finds that levying taxes on the benefit basis will be fair and equitable to landowners in the district, the commissioners court shall order an election to be held in the district.

(g) An election to approve the levy of taxes on the benefit basis must be held during the period beginning on the 30th day and ending with the 60th day after the date of the election order. Notice of the election shall be given in the same manner as notice is given for the hearing on the petition. The commissioners court shall name polling places within the district and shall appoint judges and other necessary election officers. The ballots shall be printed to provide for voting for or against the following proposition: "The levy of taxes in the district on the benefit basis."

(h) At least two-thirds of those persons voting in the election must vote in favor of the proposition for it to carry.

(i) If the proposition carries at the election, the order of the commissioners court canvassing the election shall provide that taxes of the district are to be levied on the benefit basis, but if the proposition fails to carry at the election, the order of the commissioners court canvassing the election shall provide that taxes of the district are to continue to be levied on an ad valorem basis. (42nd Legis., Ch. 311, Sec. 3, sen. 1, 2, 3, 4, 5, 6, 7, 8 (part), 10, 12.)

§ 56.250. Law Governing Districts Levying Taxes on the Benefit Basis

Any district which levies its taxes on the benefit basis is governed by the provisions of this chapter except the district need not have a board of equalization to equalize taxes in the district. (42nd Legis., Ch. 311, Sec. 4, sen. 1 (part).)

§ 56.251. Determining Acreage in the District

(a) In districts levying taxes on the benefit basis, the commissioners court shall appoint three freehold taxpaying voters in the county as a board to determine the number of acres of land owned by each landowner in the district. The persons appointed by the commissioners court shall qualify by taking an oath to fairly and impartially hold hearings and determine acreage.

(b) The board to determine acreage shall give notice of the time and place of the hearing on the acreage before the 10-day period immediately preceding the day of the hearing.

(c) At the hearing each landowner may testify about the amount of land owned by him in the district. The board has final jurisdiction to determine the exact acreage of each landowner in the district.

(d) After the board makes its determination, the land in the district shall be annually placed on the tax rolls according to the acreage determined without rendition of taxes. (42nd Legis., Ch. 311, Sec. 4, sen. 1 (part).)

[Sections 56.252 to 56.290 reserved for expansion]

SUBCHAPTER H. DISSOLUTION

Section 56.291. Authority to Dissolve a District

Subject to the provisions of Sections 50.251–50.256 of this code, a district created under this chapter may be dissolved as provided in this subchapter. (R.S. Art. 8177, sen. 1.)

§ 56.292. Petition

At a regular meeting of the commissioners court, any person may present a petition signed by at least 50 of the resident freehold taxpayers of the district, or if there are less than 100 resident freehold taxpayers in the district, then by one-third of them requesting the dissolution of the district, and the commissioners court shall order an election to be held in the district at the earliest legal time to determine whether or not the district should be dissolved. (R.S. Art. 8178.)

§ 56.293. Deposit

(a) Any person filing a petition shall deposit with the county clerk \$200 in cash which shall be held by the county clerk until the result of the election to dissolve the district is officially announced and entered in the record of the commissioners court.

(b) If the result of the election favors dissolving the district, the county clerk shall return the deposit to the petitioners or their agent or attorney, and the cost and expenses of holding the election shall be charged to the district and collected as other debts in this subchapter, but if the result of the election is against dissolving the district, the county clerk shall pay the cost and expenses of the election from the deposit with vouchers signed by the county judge and return the balance of the deposit to the petitioners or their agent or attorney. (R.S. Art. 8179.)

§ 56.294. Election

(a) Notice of the election to dissolve the district shall be posted and the election shall be held as provided by this chapter for elections to create a district.

(b) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Dissolution of the drainage district."

(c) For the proposition to carry, two-thirds of those persons voting at the election must vote to dissolve the district. (R.S. Art. 8180.)

§ 56.295. Result of the Election

(a) The returns of the election shall be made and the votes canvassed as provided in this chapter.

(b) If the proposition carries, the commissioners court shall declare the result and enter it in its minutes substantially as follows:

“_____ and _____ others having petitioned for the dissolution of _____ County Drainage District No. _____; an election having been held in the district on _____; and a two-thirds majority of the votes cast in the election having favored dissolution of the district; now, therefore, the commissioners court declares that _____ Drainage District No. _____ is dissolved.” (R.S. Art. 8181.)

(c) If the proposition fails to carry, another election for the same purpose may not be held for at least two years after the results of the election are declared. (R.S. Art. 8177, sen. 2.)

§ 56.296. Settlement of Debts

(a) When the district is dissolved, the commissioners court shall provide for settlement of debts of the district, including costs and expenses of holding the dissolution election, and may levy and collect a tax on property in the district in the amount necessary to pay all valid debts and obligations of the district except district bonds.

(b) Unless district bonds are retired as provided in Section 56.299 of this code, the bonds shall be paid according to their terms by levy and collection of an annual tax. (R.S. Art. 8182.)

§ 56.297. Dissolution Tax

(a) The commissioners court shall determine the amount of debt owed by the district and shall apportion the amount of the debt among the property taxpayers of the district, and a tax shall be levied on each piece of property in the district to pay for its proportionate share of the debt. Each taxpayer may pay his tax annually or in one payment, and the amount of debt apportioned to each tract of land is a lien on that piece of land for the payment of the debt.

(b) Payment of taxes under this section may be made either in money or by surrender of bonds or other evidences of debt of the district. Any holder or owner of debt owed by the district may surrender his bonds and coupons or approved accounts to the district tax collector to pay for taxes owed on property in the district which is owned by the holder or owner of the debt, and when surrendered, the bonds or evidences of debt shall be marked paid and a receipt issued for them. The holder of bonds and coupons may only surrender coupons that are matured at the time of their surrender, and unmatured bonds are eligible only to pay unmatured tax liability in advance and only for the year in which the bonds mature.

(c) After taxes are paid as provided in this section, the taxpayer and his property are released from further liability for debts of the district, and the district tax collector shall issue a release and a receipt for the taxes which shall be filed with the clerk of the county court in the county in which the property is located in the manner provided by law for filing documents relating to real estate. (43rd Legis., Ch. 159, Sec. 2, 3.)

§ 56.298. Compensation of Officers

(a) The county assessor and collector is entitled to receive for assessing and collecting taxes the same compensation that is paid for assessing and collecting other taxes under this chapter.

(b) The compensation of the commissioners court shall be provided in its order levying taxes. (R.S. Art. 8192, sen. 3.)

§ 56.299. Retirement of Bonds

If there are outstanding bonds at the time the district is dissolved, the commissioners court may immediately enter into negotiations with the

bondholders to retire the bonds before maturity, and if under their terms or by agreement between the commissioners court and the bondholders, the bonds can be retired at an earlier date than appears on their face and if the commissioners court considers retirement to be feasible and practicable, an agreement may be made by the commissioners court providing for paying and retiring the bonds. (R.S. Art. 8183, as amended.)

§ 56.300. Trustee

On filing and approval of a bond, the county treasurer becomes the trustee for the dissolved district. (R.S. Art. 8184, sen. 1 (part), as amended.)

§ 56.301. Trustee's Bond

The county treasurer shall execute a good and sufficient bond in a sum to be determined by the commissioners court, payable to and approved by the county judge, conditioned on the faithful performance of his duties as treasurer and trustee of the district and on paying to the parties entitled to it all money and other property which he receives as trustee and treasurer. The bond shall be recorded in the minutes of the commissioners court, and on approval shall supersede the bond given by the county treasurer as treasurer of the district. (R.S. Art. 8184, sen. 2, 3, as amended.)

§ 56.302. Trustee's Compensation

(a) The trustee is entitled to receive for his services one percent of all money received by him for the dissolved district and one percent on all money he pays out under this subchapter, but he is not entitled to receive a commission on money controlled by him when the district was dissolved or money relinquished by him at the expiration of his trusteeship.

(b) Only one compensation shall be paid to the trustee for his services as trustee and ex officio treasurer of the dissolved district. (R.S. Art. 8192, sen. 1, 2.)

§ 56.303. Powers of the Trustee

(a) The commissioners court shall provide for disposition and sale of district property, and after giving the required bond, the trustee shall assume control from the commissioners court of the district's property, including money in the district treasury and books, notes, accounts, and choses of action.

(b) The trustee may sue any person in possession of property of the district or owing a debt to the district as though the district were still organized and may employ counsel to assist him in all suits and in the care and management of the business of the dissolved district. (R.S. Art. 8184, sen. 1 (part); R.S. Art. 8185.)

§ 56.304. Expenses of the Trustee

(a) The trustee shall charge against the trust estate all reasonable expenses incurred by him in caring for, conducting, and controlling the business of the district, in employing counsel for the district, and in conducting or defending suits, and on posting notice as required in cases of other claims, the trustee shall present the charges to the commissioners court annually at a regular meeting.

(b) On approval by the commissioners court, the expenses become a valid and subsisting claim against the district and may be retained by the trustee out of funds controlled by him as treasurer of the dissolved district.

(c) If the claim for expenses is rejected either in whole or in part, the trustee may appeal the decision as other claimants appeal decisions under this subchapter. (R.S. Art. 8191.)

§ 56.305. Presentation of Claims

(a) Within the six-month period immediately following approval of the trustee's bond, any person who has a claim against the district shall present the claim duly verified to the trustee, and if the trustee finds that the claim is correct, he shall allow the claim, and the claimant shall file the claim with the clerk of the commissioners court before the beginning of the 20-day period immediately preceding the next regular meeting of the commissioners court.

(b) The clerk shall immediately issue notice of the filing to all persons interested in the district, and the notice shall be posted in three public places and at the courthouse door before the beginning of the 20-day period immediately preceding the next regular meeting of the commissioners court. (R.S. Art. 8186.)

§ 56.306. Approval of Claim

(a) At a regular meeting, the commissioners court shall determine the validity of the claim, and if the commissioners court finds that the claim is correct, it shall approve the claim and enter an order of approval in its minutes.

(b) After the claim is approved, it is a valid and subsisting claim against the district and shall be filed with the trustee who shall pay the claim in the order it was filed from the district treasury or from funds collected as liquidation taxes. (R.S. Art. 8187, sen. 1, 2.)

§ 56.307. Appeal

If any claimant is not satisfied with the judgment of the commissioners court, he may appeal the judgment in the manner that cases are appealed from the justice court. (R.S. Art. 8189.)

§ 56.308. Rejection of Claim

(a) If the trustee finds any claim unjust either in whole or in part, he shall endorse on the claim his refusal to allow it.

(b) If the whole claim is refused, the claimant may bring suit to collect the claim against the trustee in a court of competent jurisdiction in the county, and if the claim is judged valid by the court, the judgment shall be filed with the trustee and paid in its order as other claims.

(c) If the claim is refused only in part and the claimant waives his claim to the part refused, he shall file the claim in the commissioners court for approval, but if the claimant does not waive his claim to the part refused, he shall withdraw his claim from the trustee and may bring suit as provided in Subsection (b) of this section. (R.S. Art. 8188.)

§ 56.309. Bonds and Approved Claims

Bonds and approved claims which were outstanding debts of the district before its dissolution are valid and subsisting claims against the district without further approval under this subchapter, but they are subject to contest according to the provisions of this subchapter. (R.S. Art. 8187, sen. 3.)

§ 56.310. Contesting Claim

(a) If any district taxpayer files with the trustee a protest against any claim which was allowed by the former drainage commissioners before the district was dissolved and which was unpaid at the time the district was dissolved, the trustee shall refuse to pay the claim. The protest shall be accompanied by a bond in double the amount of the claim with sufficient sureties to be approved by the trustee and payable to the trustee, conditioned on payment by the contestant of all costs of suit if the claimant establishes his claim.

(b) After the trustee rejects the claim, the claimant may bring suit against the trustee to recover the claim as in other suits of a civil nature, and the contestant and his bondsman shall be parties to the suit. The trustee shall make all defenses urged against the claim by the contestant. If the claimant recovers, judgment shall be rendered against the contestant and his bondsman for costs incurred in the suit, and the claimant shall file the judgment with the trustee who shall pay the claim as other claims are paid under this subchapter. (R.S. Art. 8190.)

§ 56.311. Final Report of Trustee

(a) When all claims against the district are paid and all costs and expenses incurred in controlling and managing the district are satisfied, the trustee shall file with the commissioners court his account for final settlement.

(b) The trustee's account shall include a complete statement of all money received and paid out, of all property controlled and disposed of by the trustee, and of all other matters relating to management of the district's affairs.

(c) On approval of the account, the commissioners court shall direct the trustee to turn over to persons entitled to it as found by the commissioners court all money and property remaining in the control of the trustee, and on compliance with this order, the trustee shall report to the commissioners court, and the commissioners court shall enter an order discharging the trustee and his bondsman and closing the trust estate. (R.S. Art. 8193.)

CHAPTER 57. LEVEE IMPROVEMENT DISTRICTS

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SUBCHAPTER A. GENERAL PROVISIONS

Section 57.001. Definitions

In this chapter:

- (1) "District" means levee improvement district.
- (2) "Board" means the board of directors of a levee improvement district.
- (3) "Water development board" means the Texas Water Development Board.
- (4) "Commissioners court" means the commissioners court of the county in which the district is located or the commissioners court of the county of jurisdiction. (New.)

[Sections 57.002 to 57.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

Section 57.011. Creation

A levee improvement district may be created in the manner prescribed by this chapter under Article XVI, Section 59, of the Texas Constitution. (R.S. Art. 7972 (part).)

§ 57.012. Petition

(a) Before a district is created, a petition must be presented to the commissioners court or to the county judge of the county if the commissioners court is not in session.

(b) The petition, signed by the owners of a majority of the acreage of the proposed district, shall:

- (1) describe the proposed boundaries of the district;
- (2) state the general nature of the proposed improvements and their necessity and feasibility;
- (3) state whether the taxes proposed to be levied in the district are to be levied on the ad valorem basis or on the benefit basis; and
- (4) designate a name for the district which shall include the name of the county in which the district is located.

(c) If the proposed district is composed of land in two or more counties, the petition must designate one of the counties in which any part of the district is to be located as the county of jurisdiction, and this county has jurisdiction over all matters concerning the district. (R.S. Art. 7974, sen. 1 (part).)

§ 57.013. Deposit

(a) A petition for creation of a district shall be accompanied by a deposit of \$50, and if the district is to be composed of more than one county, the deposit shall be \$75.

(b) The deposit shall be paid to the clerk of the commissioners court, and the clerk shall use the deposit to pay all expenses incident to the hearing on the petition. The clerk shall pay the expenses with vouchers approved by the county judge.

(c) If any of the deposit is left after the expenses are paid, the clerk shall return the excess to the petitioners or their attorney. (R.S. Art. 7976.)

§ 57.014. Hearing on Petition

The commissioners court or the county judge to which the petition is presented shall fix a time and place for the hearing on the petition before the commissioners court. The hearing must be held during the period beginning with the 15th day and ending with the 30th day after the date of the order. (R.S. Art. 7974, sen. 1 (part).)

§ 57.015. Notice of Hearing

(a) The commissioners court shall order the county clerk to issue notice informing all persons concerned of the time and place of the hearing, and of their right to appear at the hearing to contend for or contest the creation of the district, and the county clerk shall deliver the notice to any adult person who is willing to post it. (R.S. Art. 7974, sen. 1 (part).)

(b) The notice shall be posted at the courthouse door and at four different places inside the proposed district. If the district is located in more than one county, the person posting the notice shall post a copy at the courthouse door in each county in which any portion of the proposed district is located and at four separate places inside the boundaries of that portion of the district located in each county. The notice shall be posted for at least 10 days before the date of the hearing.

(c) Any person who posts the notice shall make an affidavit before some officer authorized by law to administer oaths that he posted the notices. The affidavit is conclusive of the sworn facts. (R.S. Art. 7975.)

(d) The order of the commissioners court shall direct the county clerk to mail notice of the hearing to the water development board in Austin, Texas. The notice shall state that the petition has been filed and shall include a statement of the petition's general purpose and the time and the place of the hearing. (R.S. Art. 7974, sen. 2.)

§ 57.016. Investigation by Water Development Board

(a) When the water development board receives the notice provided for in Section 57.015(d), it shall examine the proposed district, and do the work required to determine the necessity, feasibility, and probable costs of reclaiming the land of the district from overflow and of draining it properly. The water development board shall also determine the costs of organizing the district and maintaining it for two years.

(b) A representative of the water development board shall attend the hearing on the petition to create the district and file a written report with the commissioners court on matters which have been investigated. The board shall furnish the commissioners court any additional information that is required. (R.S. Art. 7977.)

§ 57.017. Hearing Procedure

(a) The commissioners court has exclusive jurisdiction to determine all issues with respect to the creation of the district and all issues involved in proceedings with respect to the district after it has been created.

(b) The commissioners court may adjourn the hearing from day to day and from time to time.

(c) The commissioners court may make all incidental orders deemed proper with respect to the matters before it. (R.S. Art. 7978, sen. 2, 3, 4.)

§ 57.018. Conduct of Hearing

At the hearing, the commissioners court shall hear the petition and all issues with respect to the creation of the proposed district. Any person interested, or his attorney, may appear and contend for or contest the creation of the district and offer testimony pertinent to any issue presented. (R.S. Art. 7978, sen. 1.)

§ 57.019. Findings and Judgment

(a) Before the commissioners court determines that the district should be created, it must find:

- (1) that the petition is signed by the owners of a majority of the acreage in the proposed district;
- (2) that notice of the hearing was given;
- (3) that the proposed improvements are desirable, feasible, and practicable; and
- (4) that the proposed improvements would be a public utility and a public benefit and would be conducive to public health.

(b) If the commissioners court determines that the district should be created, it shall render a judgment which recites its findings and establishes the district.

(c) The commissioners court shall include its findings and judgment in an order which shall be recorded in the minutes of the commissioners court. The order shall define the boundaries of the district, but it does not have to include all of the land described in the petition if at the hearing a modification or change in the district is found to be necessary. (R.S. Art. 7979, sen. 1.)

§ 57.020. Appeal of Dismissal of Petition

If at the hearing on the petition the commissioners court enters an order dismissing the petition, the petitioners or any one of them or any taxpayer in the district may appeal the order to the district court of the county. (R.S. Art. 7979, sen. 3 (part).)

§ 57.021. Notice of Appeal

(a) Notice of the appeal shall be given by announcement at the time the order of the commissioners court is recorded or by written notice within the two-day period immediately following the entry of the order.

(b) If the notice is announced at the time the order is entered, the notice shall be entered in the minutes of the commissioners court.

(c) Written notice given under this section shall include a simple statement that the undersigned is appealing the order of the commissioners court and shall be filed with the county clerk. (R.S. Art. 7979, sen. 3 (part).)

§ 57.022. Appeal Bond

Within five days from the date the order is recorded, the appellant must file an appeal bond with two or more good and sufficient sureties, payable to the county judge, approved by the county clerk, and conditioned upon the due prosecution of the appeal and payment of all costs incident to the appeal. No extension of time will be granted for filing the appeal bond. (R.S. Art. 7979, sen. 3 (part).)

§ 57.023. Time for Appeal

Unless the appeal is perfected according to Sections 57.021–57.022 of this code within five days after the order is rendered, the order shall be final and conclusive. (R.S. Art. 7979, sen. 3 (part).)

§ 57.024. Transfer of Records and Orders

Within five days after the appeal bond is filed, the county clerk must transfer to the clerk of the district court all the records filed with the commissioners court which relate to the establishment of the district and a transcript of the orders of the commissioners court. No additional pleadings are required. (R.S. Art. 7979, sen. 3 (part).)

§ 57.025. Trial of Appeal and Judgment

(a) The district court shall set the appeal for a hearing and shall give it precedence over all other cases. The appeal shall be tried de novo.

(b) The judgment of the district court shall be final and conclusive, and the decision shall be certified to the commissioners court for its further action. (R.S. Art. 7979, sen. 4, 5.)

§ 57.026. Authorizing Districts to Operate under this Chapter

(a) Districts that are organized under the laws of this state for the purpose of reclaiming lands through a system of levees and drainage and that are not governed by the provisions of laws of this state are entitled to and may exercise all the rights, powers, and privileges conferred by this chapter on districts created under it. They are also entitled to exercise all of the enlarged powers which may be conferred under Article XVI, Section 59, of the Texas Constitution.

(b) Before a district may operate under the provisions of this chapter, the owners of a majority of the acreage of the district must present to the commissioners court of the county in which the district is located a petition requesting that a hearing be ordered to determine whether or not the district may avail itself of the provisions of this chapter.

(c) The commissioners court shall fix a time and place for the hearing, and give notice according to the provisions of Section 57.015 of this code.

(d) At the hearing the commissioners court shall hear evidence for and against the issue presented by the petition. If it finds that the interests of the district would be promoted by granting the petition, it shall enter a judgment in the record, declaring that:

(1) it is in the interest of the district to avail itself of all rights, powers, and privileges conferred by this chapter on districts created under it;

(2) the district on behalf of which the petition is filed is entitled to and may exercise all rights, powers, and privileges conferred by this chapter on districts created by it; and

(3) the district may exercise all the rights, powers, and privileges as if it were created under this chapter, and shall proceed as if it were created under this chapter.

(e) The decree of the commissioners court shall not in any way injuriously affect any financial liability of the district. (R.S. Art. 8037.)

[Sections 57.027 to 57.050 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 57.051. Appointment of Board of Directors

The commissioners court which creates a levee improvement district under this chapter, by majority vote, shall appoint three directors for the district. (R.S. Art. 7987, sen. 1 (part), as amended.)

§ 57.052. Organization of Board

After the members of the board have qualified, the board shall organize by electing one of its members chairman and one member as vice chairman. The board shall elect a secretary, who need not be a member of the board, and shall certify its organization and the name of the engineer to the court of jurisdiction. (R.S. Art. 7989 (part).)

§ 57.053. Term of Office, Removal, and Succession

(a) Each director shall hold office for a period of two years and until his successor is appointed and has qualified.

(b) A vacancy on the board shall be filled by majority vote of the court of jurisdiction, and the court shall appoint directors so that the board will always have full membership.

(c) The court of jurisdiction, by majority vote, may remove a member of the board. (R.S. Art. 7987, sen. 2 (part), as amended.)

§ 57.054. Director's Bond

(a) Before beginning to perform his duties, each director must execute a bond for \$1,000 with good and sufficient security, approved by the county judge, payable to the district, conditioned that the director will faithfully perform his duties and will render true accounts of his expenses and services.

(b) The commissioners court which has jurisdiction may fix the bond for a larger amount if, in its judgment, the interest of the district requires it.

(c) The bonds shall be filed with the clerk of the commissioners court having jurisdiction, and the clerk shall enter the bonds in the records in his office and retain the bonds in the file. (R.S. Art. 7988 (part).)

§ 57.055. Director's Oath

Before beginning to perform his duties, each director shall take and subscribe before some officer authorized to administer oaths an oath to discharge faithfully and impartially his duties as director and to render true accounts of his services and expenses. (R.S. Art. 7988 (part).)

§ 57.056. Compensation

Each director is entitled to receive for his services not more than \$25 a day and all his expenses for the time he is actually engaged in work of the district. The commissioners court shall determine the amount of per diem to which a director is entitled, and the expenses will be paid on rendition of a sworn account approved by the county judge of the county which has jurisdiction. (R.S. Art. 7987, sen. 2 (part), as amended.)

§ 57.057. Election of Board of Directors

After creation of a district with boundaries which are the same as the boundaries of the county in which it is located, an election may be held to determine whether or not directors for the district will be elected rather than appointed. (R.S. Art. 7987—1 (part), as amended.)

§ 57.058. Number of Elected Directors

In districts which have elected boards, there shall be five directors on the board. One director shall be elected by the electors of the entire district and one director elected from each county commissioners precinct by the electors of that precinct. (R.S. Art. 7987—1 (part), as amended.)

§ 57.059. Qualifications for Elected Directors

To be qualified for election as a director, a person must be a qualified property taxpaying elector of the precinct and county from which he is elected and be eligible under the constitution and laws of this state to hold the office to which he is elected. (R.S. Art. 7987—1 (part), as amended.)

§ 57.060. Petition

Before an election is held under Section 57.057 of this code, a petition, signed by at least 25 electors in each county commissioners precinct who are qualified to vote at an election for directors, shall be presented to the county judge requesting that an election be held in the district to determine whether or not directors for the district should be elected and, if so, to elect directors to serve until the next regular election for state and county officers. The petition shall include the name of one or more nominees for each director's position. (R.S. Art. 7987—1 (part), as amended.)

§ 57.061. Procedure for Election

(a) After the petition is presented under Section 57.060 of this code, the county judge shall order an election to determine the propositions presented in the petition. The election shall be held not less than 30 days from the date of the order calling the election, or the propositions may be determined at a general election. (R.S. Art. 7987—1 (part), as amended.)

(b) The election order shall designate the polling places which shall be the same as the polling places used in the last general election in the county. If there have been any changes in the polling places since the last general election, the election order shall designate the places as they were changed. (R.S. Art. 7987—1 (part), as amended.)

(c) The county clerk shall issue notice of the election and shall have the notice published in a newspaper of general circulation in the county once a week for two consecutive weeks. The first publication must be not less than 14 days before the day of the election. (R.S. Art. 7987—1 (part), as amended.)

(d) The sheriff shall post a copy of the notice at least 20 days before the day of the election at each polling place designated in the election order. (R.S. Art. 7987—1 (part), as amended.)

(e) The county shall pay all expenses incident to calling and holding the election. (R.S. Art. 7987—1 (part), as amended.)

§ 57.062. Terms; Vacancies

(a) The initial directors elected under Section 57.061 of this code shall serve until the next general election for state and county officers, and subsequent directors shall be elected for two-year terms and shall be elected at each general election.

(b) Vacancies in the office of director shall be filled by the remaining directors. (R.S. Art. 7987—1 (part), as amended.)

§ 57.063. Compensation

Each elected director is entitled to receive as compensation for his services \$20 for each official meeting which he attends, but he is not entitled to receive more than \$40 in any one month. (R.S. Art. 7987—1 (part), as amended.)

§ 57.064. District Treasurer

The county treasurer of the county whose commissioners court has jurisdiction of the district shall serve as treasurer of the district. (R.S. Art. 8019, sen. 1 (part).)

§ 57.065. Treasurer's Bond

(a) The treasurer shall execute a good and sufficient bond, approved by the board, payable to the district, in an amount equal to one and one-fourth of the taxes that are estimated will be collected in any one year, or any further amount the board may require.

(b) The treasurer's bond is conditioned on the faithful performance of his duties as treasurer of the district.

(c) The bond may be made by any guaranty or surety company approved by the board, and the premiums may be paid out of the district's maintenance fund. (R.S. Art. 8019, sen. 1 (part), 2.)

§ 57.066. Treasurer's Compensation

The treasurer is entitled to receive as compensation for his services not more than one-fourth of one percent of all money received by him for the district. (R.S. Art. 8019, sen. 3.)

§ 57.067. Engineer and Other Employees

The board shall employ an engineer and other employees or assistants needed to successfully carry on and complete the work and business of the district. (R.S. Art. 7989 (part).)

§ 57.068. Compensation of Other Officers

(a) A person who performs a service for the district under this chapter is entitled to receive the same compensation as he would receive for similar services rendered as an officer of the county, unless his compensation is expressly provided for in this chapter.

(b) A clerk recording an order under this chapter is entitled to receive the same compensation as a county clerk for recording deeds. A person who posts notice under this chapter is entitled to receive the same compensation as a sheriff would receive for posting notices required by law to be posted by him. (R.S. Art. 8022.)

§ 57.069. Court Actions

The district may sue and be sued in its own name in all state courts. State courts shall take judicial notice of the existence of the district. (R.S. Art. 8026 (part).)

§ 57.070. District Seal

Districts created under this chapter shall have a common seal, which shall be circular with the name of the district and a five-pointed star in the center. (R.S. Art. 8026 (part).)

[Sections 57.071 to 57.090 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**Section 57.091. Purposes of District**

A district may be created for the following purposes:

- (1) to construct and maintain levees and other improvements on, along, and contiguous to rivers, creeks, and streams;
- (2) to reclaim lands from overflow from these streams;
- (3) to control and distribute the waters of rivers and streams by straightening and otherwise improving them; and
- (4) to provide for the proper drainage and other improvement of the reclaimed land. (R.S. Art. 7972 (part).)

§ 57.092. General Powers of District

(a) The district may enter into all necessary and proper contracts and employ all persons and means necessary to build, construct, complete, carry out, maintain, protect, and in case of necessity, add to and rebuild all works and improvements within the district necessary or proper to fully accomplish a reclamation plan lawfully adopted for the district.

(b) The powers granted in this section are subject to the supervision and direction of the water development board or other authority created by law. (R.S. Art. 7980 (part).)

§ 57.093. Approval of Plans by Water Development Board

(a) Before a district constructs or maintains any levees or other improvements, the water development board must approve the plans for the levees or other improvements.

(b) If a district undertakes construction or maintenance of a levee or other improvement without first obtaining approval of the plans by the water development board, the attorney general, on the request of the water development board, shall file suit in one of the district courts in Travis County, Texas, to enjoin the construction or maintenance of the levee or other improvement. (R.S. Art. 8027.)

§ 57.094. Protesting Decision of Water Development Board

(a) If the board or any interested person is dissatisfied with the action of the water development board in finally approving or disapproving any plan of reclamation for the district, the board or the person may, within 15 days after the final action, file suit against the water development board in the district court of the county in which the court of jurisdiction is located. The district shall be made a party defendant if the suit is on behalf of any other complaining person.

(b) The petition shall include the cause or causes of objection to the water development board's action and shall show what interests of the petitioner are injuriously affected by the action.

(c) Process shall issue as in other cases, and the case shall have preference of trial in the court in which it is filed.

(d) Upon final hearing, the court shall render its judgment and decree approving or disapproving the plan of reclamation, in whole or in part, in the manner that it may find to be equitable and just. The judgment stands for the action of the water development board in such matters.

(e) An appeal may be taken, as in ordinary cases, from the judgment of the trial court, and the appeal shall have preference of hearing in the court of civil appeals. The judgment of the court of civil appeals is final and shall stand for the action of the water development board with respect to the matters at issue in the suit. (R.S. Art. 8034.)

§ 57.095. Authority to Go on Land

(a) The board, the engineer, the employees of the district, and representatives of the water development board are authorized to enter any land or go on any water for the purpose of examining the land with reference to the location of levees, drainage ditches, and all other kinds of improvements to be constructed for the district and for any other lawful purpose connected with their plan of reclamation, and may take any necessary teams, help, and instruments on the land or water.

(b) Any person who wilfully prevents or hinders any district officer from entering the land or going on the water for the purposes authorized by Subsection (a) of this section shall be fined not more than \$25 for each day he prevents or hinders the officer from entering the land or going on the water. (R.S. Art. 7983; P.C. Art. 850.)

§ 57.096. Acquiring Rights-of-Way

The board may acquire by gift or condemnation any rights-of-way necessary to construct and maintain the levees and other necessary improvements authorized by this chapter and any levee or other improvements already constructed. (R.S. Art. 7982.)

§ 57.097. Rights-of-Way across Roads

Districts have the right-of-way across all public or county roads, and shall restore roads which are crossed as near to their previous condition of use as possible. (R.S. Art. 7985.)

§ 57.098. Power of Eminent Domain

The district may exercise the power of eminent domain to acquire the fee simple title, easement or right-of-way to, over, and through private and public land, water, or land under water, within, bordering upon, adjacent to, or opposite to the district necessary for making, constructing, and maintaining levees and other improvements to prevent the overflow of rivers, creeks, or streams inside or bordering on the district. (R.S. Art. 7981, sen. 1.)

§ 57.099. Eminent Domain Procedure

(a) The district may acquire property by condemnation for the purposes stated in Section 57.098 of this code if for any reason the board of appraisers has not condemned it under the provisions of Section 57.271 of this code.

(b) Eminent domain proceedings are brought in the name of the district.

(c) Adequate compensation must be paid to the owners of any property taken, damaged, or destroyed for the purposes stated in Section 57.098 of this code.

(d) A district created under this chapter may elect to take advantage of the condemnation procedure provided in Subchapter F of Chapter 51 of this code. (R.S. Art. 7981, sen. 2, 3; 39th Legis., G.L., Ch. 25, Sec. 126, sen. 100, as amended.)

§ 57.100. Construction of Levees

(a) The district may construct the necessary levees, bridges, and other improvements across or under

- (1) railroad embankments, tracks, or rights-of-way;
- (2) public or private roads or the rights-of-way for the roads; or
- (3) levees, other public improvements, and rights-of-way of other districts.

(b) A district may join its improvements to improvements in another district. (R.S. Art. 7984 (part).)

§ 57.101. Construction of Levees by Railroad Companies and Other Authorities

(a) Before the district may construct a levee, bridge, or other improvement across or under any railroad improvement or right-of-way, any road, or any improvement of another district, the board must notify the proper railroad authorities, or other authorities of the additions or changes to result from the improvements planned by the district.

(b) The railroad authorities, or other authorities shall have 30 days from the day they receive the notice to agree or not to agree to do the work at their own expense to construct the improvements in their own manner.

(c) If a railroad or other authority undertakes to construct an improvement for the district, the design or manner of construction must be satisfactory to the district and must be approved by the water development board. (R.S. Art. 7984 (part).)

§ 57.102. Unlawfully Constructing Levees

(a) A person, corporation, or district may not construct or maintain a levee or other improvement on, along, or near any stream of this state which is subject to floods, freshets, or overflows to control, regulate, or otherwise change the floodwaters of the stream without first obtaining the approval of the plans for the structure from the water development board.

(b) A person who violates the provisions of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both. A separate offense is committed each day a structure constructed in violation of this section is maintained.

(c) The provisions of this section do not apply to dams, canals, or other improvements made by individuals or corporations for the purpose of irrigation or water improvement. (P.C. Art. 1363.)

§ 57.103. Injuring Levees

A person who wrongfully or purposely cuts, injures, destroys, or in any manner impairs the usefulness of a levee or other reclamation improvement, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both. (R.S. Art. 8035.)

§ 57.104. Duty to Construct Approved Improvements

The district shall construct all improvements included in the plan of reclamation approved by the water development board. (R.S. Art. 8023, sen. 1.)

§ 57.105. Notice of Bids

Before the board may award a construction contract, it must publish notice of the intention to award the contract once a week for three consecutive weeks in one or more newspapers with general circulation in the state. A contract may be awarded without publishing notice if the contract is approved jointly by the board and the owners of a majority of the acreage in the district. (R.S. Art. 8023, sen. 2 (part).)

§ 57.106. Award of District Contract

The board shall award contracts to construct levees and other improvements necessary to the district to the lowest and best bidder, and shall

execute a written contract which shall be in duplicate and signed by the contractor. (R.S. Art. 8023, sen. 2 (part).)

§ 57.107. Interest in a District Contract

If the county judge, a county commissioner, a district director, or the district engineer becomes directly or indirectly interested in a contract for work to be done by the district so that he receives any money consideration or other thing of value other than the compensation provided in this chapter, he shall be confined in the county jail for not less than six months nor more than one year. (P.C. Art. 375.)

§ 57.108. Conditions of Contract

(a) In order to complete the construction of planned improvements for the amount of money or bonds available for that purpose, the contract shall include all improvements proposed and authorized by the approved plan of reclamation.

(b) Contracts may be awarded in sections, but in order to insure that the total cost of the work is within the amount of funds available, no contract for a part of the work is valid unless and until all sections of the work have been awarded under the provisions of Sections 57.104-57.106 of this code. (R.S. Art. 8023, sen. 2 (part).)

§ 57.109. Contractor's Bond

The contractor shall execute a corporate surety bond for the full amount of the contract price to guarantee the completion of the contract. The bond must be approved by the county judge. (R.S. Art. 8023, sen. 4.)

§ 57.110. Funds Required Before Contract Awarded

(a) Before the board may award a contract to construct any part of the improvements proposed and authorized by the plan of reclamation, there must be sufficient funds available for the purpose of completing improvements. If a contract is made before sufficient funds are available to complete the improvements, the contract is void and unenforceable in any state court.

(b) A district taxpayer may bring suit to enjoin the performance of or payment of money on a contract made before sufficient funds are available for the completion of the planned improvements.

(c) In case of an urgent necessity or present calamity which makes it necessary to act at once to repair a levee in order to preserve the property in the district, the board may award a contract without sufficient funds being available to complete the improvement. (R.S. Art. 8023, sen. 3 (part).)

§ 57.111. Conditioning Contract on Sale of Bonds

After the approval and registration of bonds by the proper state officials as provided in this chapter, the board may award contracts conditioned on the sale of bonds in an amount equal to the contract price. (R.S. Art. 8023, sen. 3 (part).)

§ 57.112. Contract Payments

(a) The district shall immediately notify the county treasurer that a contract has been executed.

(b) The county treasurer shall set aside an amount of money in the construction and maintenance fund of the district known as "Special Fund Under Contract, dated _____" (inserting date of contract). This special fund shall be for the full amount of the contract price.

(c) The county treasurer shall pay warrants against the special fund only on accounts sworn to by the contractor and duly audited and approved by the board.

(d) Use or payment of any part of this special fund for any purpose other than the purpose for which it was designated is a diversion of the fund, punishable as provided in Article 94, Texas Penal Code. (R.S. Art. 8023, sen. 2 (part).)

§ 57.113. Payment of Contract with Bonds

The board, with the written consent of the county judge, may pay the contractor for improvements constructed in conformity with the contract with bonds of the district, and the bonds may be delivered in installments based on estimates of the engineer as the work progresses. (R.S. Art. 8023, sen. 2 (part).)

§ 57.114. Payment for Work Done

(a) The board shall inspect the progress of work under the contract, and on completion of any improvement in accordance with the contract, the board shall draw a warrant on the treasurer for the unpaid amount of the contract.

(b) If the board pays for work as it is completed, it may not pay more than 85 percent of the contract price for that part of the work that is completed.

(c) The amount of work completed shall be shown by estimates of the engineer. (R.S. Art. 8025.)

§ 57.115. Duty to Supervise

The board and the engineer shall supervise all work included in the contract to assure that the work is done in accordance with the specifications. (R.S. Art. 8024, sen. 1.)

§ 57.116. Engineer's Report

(a) As the work on the plan of reclamation progresses, the engineer shall make a report to the board, showing in detail whether or not the contract is being fulfilled.

(b) When the work is completed, the engineer shall make a detailed report to the board, showing whether or not the contract has been completely fulfilled, and if not, in what particular it has not been fulfilled. (R.S. Art. 8024, sen. 2.)

§ 57.117. Inspection and Report by Water Development Board

(a) The water development board shall inspect the construction of a levee or other improvement once every 60 days after the construction work has commenced, and if it finds that the work has been done in strict accordance with the contract, the water development board shall certify this fact, and its certificate shall give a full description of the work done up to the date of inspection.

(b) If the water development board finds that the work has not been done in strict accordance with the contract, it shall officially certify this fact, and in the certificate it shall state where the contractor has failed to comply with the approved plan of reclamation. (R.S. Art. 8024, sen. 3.)

§ 57.118. Compliance with Contract

After the board receives a report that the contractor has failed to comply with the contract, it shall demand that the contractor comply with the requirements of the approved plan of reclamation at his own expense, and no further accounts, claims, or vouchers submitted by the contractor shall be approved or paid until the contractor complies with the require-

ments of the water development board by constructing the improvement in accordance with the plan of reclamation. (R.S. Art. 8024, sen. 4.)

§ 57.119. Interference with Work

A person who wilfully destroys or defaces any corner, line, mark, bench mark, or other object fixed or established in connection with authorized work is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not less than 30 days or by both. (R.S. Art. 8036.)

§ 57.120. Authority to Act Jointly

"A district may act jointly with other districts, with cities and towns and other political subdivisions of the state, with the State of Texas, with other states, and with the United States in the performance of any of the powers and duties permitted by this chapter. The joint acts shall be done on terms agreed upon by the board, subject to the approval of the water development board. (R.S. Art. 7986.)

Amended by Acts 1971, 62nd Leg., p. 1767, ch. 518, § 1, eff. May 31, 1971.

§ 57.121. Interpretation of District Powers

Except as expressly provided, specific powers authorized by this chapter may not operate as a limitation on the general powers authorized by this chapter. (R.S. Art. 7980 (part).)

[Sections 57.122 to 57.150 reserved for expansion]

SUBCHAPTER E. PLAN OF RECLAMATION**Section 57.151. Authority of Engineer**

The engineer, subject to the authority of the water development board, shall control the engineering work of the district. (R.S. Art. 7990, sen. 1 (part).)

§ 57.152. Permission to Make Survey

The district may apply in writing to the water development board for authority to obtain information by proper surveys on the feasibility of reclaiming lands which may be later incorporated in the district, and if the water development board is satisfied that the applicant is competent and acting in good faith, it shall issue to the applicant express written authority to make surveys to obtain the desired information. (R.S. Art. 7973 (part).)

§ 57.153. Authority to Enter Land

After the engineer receives written authority to make surveys under Section 57.152 of this code, he may enter any land proposed to be incorporated in the district to examine the land and locate boundary lines and to obtain other information to be used in the formation of the district. (R.S. Art. 7973 (part).)

§ 57.154. Survey and Report

(a) The engineer shall make a survey of the land inside the boundaries of the district, and land surrounding the district, that will be improved or reclaimed by the system of levees and drainage to be adopted and shall

prepare for the board a written report, with maps and profiles, of the results of his survey.

(b) A duplicate of the engineer's report shall be filed with and approved by the water development board. (R.S. Art. 7990, sen. 1 (part).)

§ 57.155. Contents of Report

(a) The engineer's report shall contain a complete plan for draining land, constructing levees on land, and reclaiming land of the district from overflow or damage by waters from streams inside or adjacent to the district which may affect land in the district. The report shall also include a description of the physical characteristics of the land within the district and the location of any public roads, railroads, rights-of-way and roadways, and other improvements on the land of the district.

(b) The plan may include, and where necessary must include, the costs of straightening streams which may injure the land of the district. (R.S. Art. 7990, sen. 1 (part).)

§ 57.156. Plan of Reclamation

(a) Before the engineer's report is adopted, the water development board or the board, with the approval of the water development board, may modify the report.

(b) When the engineer's report is approved by the water development board and adopted by the board, it shall be known as "The Plan of Reclamation."

(c) An approved plan of reclamation cannot be modified or changed in any manner if the cost of the plan is over \$1,000, unless a petition, signed by the owners of a majority of the acreage in the district is presented to and approved by the water development board.

(d) A copy of the plan of reclamation and of any amendments to it shall be filed with the county clerk in each county in which any land lies which will be affected by the plan of reclamation. The filing is notice of the contents of the plan of reclamation to all persons owning or having any interest in any lands in the county in which it is filed. (R.S. Art. 7990, sen. 2, 3.)

[Sections 57.157 to 57.170 reserved for expansion]

SUBCHAPTER F. GENERAL FISCAL PROVISIONS

Section 57.171. May Borrow Money

A district may borrow money to accomplish the purposes stated in Section 57.092 of this code. (R.S. Art. 7980 (part).)

§ 57.172. District Depository

(a) The board shall select a depository for funds of the district, and the county treasurer shall deposit the funds of the district in the depository as the board directs.

(b) Before the depository receives any funds of the district, it shall execute a bond with a corporate surety company authorized to do business in the State of Texas payable to the district as surety. The bond must be in an amount equal to the funds deposited, and conditioned on the safe-keeping and payment of the funds. (R.S. Art. 8021.)

§ 57.173. Treasurer's Duties

(a) The county treasurer, as treasurer of the district, shall open an account for each district and keep an accurate account of all money belonging to the district, either received or paid out by him.

(b) He shall pay out money only on a voucher signed by two of the directors and countersigned by the county judge, and shall carefully preserve all orders for the payment of money.

(c) The treasurer shall render to the board or the commissioners court as often as they require it a correct account of all matters pertaining to the financial condition of the district. (R.S. Art. 8020.)

§ 57.174. Duties of Tax Assessor and Collector

The county assessor and collector is charged with the assessment rolls of the district, and he shall collect all taxes levied and assessed against property inside the district, and deliver the taxes collected to the treasurer of the district. (R.S. Art. 8015 (part).)

§ 57.175. Tax Assessor and Collector's Bond

The bond of the county assessor and collector stands as security for the proper performance of his duties as tax collector of the district, unless the board decides that an additional bond payable to the district is required. (R.S. Art. 8015 (part).)

§ 57.176. Failure of Tax Collector to Perform Duties

(a) A county assessor and collector who fails to collect the district's taxes or to give an additional required bond as provided in Sections 57.174-57.175 of this code is guilty of malfeasance in office, and the commissioners court shall suspend him from office, and may bring action to remove him from office as provided by Article V, Section 24, of the Texas Constitution.

(b) If the county tax collector is suspended, the board may appoint a special collector for the district and require him to furnish security.

(c) A person chosen as a special collector for the district has, in the district, the same rights and powers that a county assessor and collector has in his county. (R.S. Art. 8015 (part).)

§ 57.177. Financing the District Without Bonds

(a) If the district wants to carry out its plan of reclamation without issuing bonds, the board may arrange for contributions from landowners or other sources to provide the funds required to complete the improvements.

(b) The electors of the district may vote to create an indebtedness which is not evidenced by bonds.

(c) If the district creates an indebtedness under this section, the indebtedness may not be more than:

(1) the cost of construction of improvements included in the plan of reclamation;

(2) the cost as estimated by the water development board of maintaining the improvements for two years; and

(3) an additional amount equal to 10 percent to meet emergencies, modifications, and changes lawfully made, plus damages awarded against the district. (R.S. Art. 7999.)

[Sections 57.178 to 57.200 reserved for expansion]

SUBCHAPTER G. ISSUANCE OF BONDS

Section 57.201. Power to Issue Bonds

The district may issue bonds, but it may not issue bonds nor incur any debt unless an election is held in the district and the proposition is approved by a majority vote of the electors of the district who vote in the election. (R.S. Art. 7980 (part).)

§ 57.202. Petition

(a) If a district wants to issue bonds to raise funds for making improvements, a petition shall be presented to the commissioners court which has jurisdiction or to the county judge if the commissioners court is in vacation. The petition shall be signed by the owners of a majority of the acreage included in the district and shall request the issuance of bonds in the amount stated.

(b) The petition shall state the rate of interest to be borne by the bonds and shall request that an election be held in the district to determine whether or not bonds should be issued by the district for the purposes indicated in this section and for the amount stated and whether or not taxes should be levied in the district to pay for the bonds.

(c) The amount of bonds stated in the petition shall not be more than the sum of:

(1) the cost of construction of improvements to be made according to the adopted plan of reclamation approved by the water development board;

(2) the cost of maintenance of the improvements for two years as estimated by the water development board;

(3) an additional 10 percent to meet emergencies, modifications, and charges lawfully made; and

(4) all damages awarded against the district. (R.S. Art. 8000, sen. 1, 2 (part).)

§ 57.203. Election Order

On presentation of a petition for the issuance of bonds, the commissioners court, or the county judge if the commissioners court is not in session, shall order an election in the district to authorize the issuance of bonds. The commissioners court, or the county judge if the commissioners court is not in session, shall set the date for the election in its order and shall enter the election order in its minutes. The election must be held during the period beginning on the 20th day and ending with the 30th day after the date of the order. (R.S. Art. 8001, sen. 1.)

§ 57.204. Notice of Election

(a) When the commissioners court of jurisdiction or county judge orders a bond election, the clerk of the commissioners court of jurisdiction shall issue and give to the sheriff a notice stating in substance the contents of the election order and the time and place of the election. The sheriff or his deputy shall post a copy of the notice at the courthouse door and at four different places in the district.

(b) If the district is located in more than one county, the notice may be delivered to any adult person, who shall post copies of the notice at the courthouse of each county in which any portion of the district is located, and at four separate places inside the boundaries of those portions of the district situated in each county.

(c) The notice must be posted for at least the 10-day period immediately preceding the date of the election.

(d) The sheriff or person posting the notice shall make return to the clerk of the commissioners court of jurisdiction, and a return by an individual other than the sheriff must be under oath before some person authorized by law to administer oaths.

(e) The return of the sheriff or any other person under oath is conclusive evidence of the facts stated. (R.S. Art. 8003.)

§ 57.205. Conduct of Election

(a) The district is an election precinct for the purpose of bond and other elections held under this chapter, and there shall be at least one polling place in each county in which a portion of the district is located.

(b) The commissioners court or the county judge, whichever orders the election, shall establish polling places for the election and shall appoint a judge and two clerks for each polling place and shall appoint other judges and clerks if necessary. The appointed judges and clerks shall conduct the election, and if a judge or clerk is absent or refuses to serve, the electors shall choose someone to replace him.

(c) The board shall furnish necessary ballots and other supplies for the election, and the ballots shall be printed to provide for voting for or against the following proposition: "The issuance of bonds and the levy of taxes to pay for the bonds." (R.S. Art. 8001, sen. 2, 3, 4; R.S. Art. 8004, sen. 1 (part).)

§ 57.206. Expenses of Election

(a) The petition for a bond election shall be accompanied by a \$200 deposit, which shall be used to pay the expenses of the election and other expenses that may be properly incurred before the bonds are sold and issued.

(b) Any remaining portion of the deposit shall be returned to the petitioners or their attorney; and when the bonds are issued, the expenses paid from the deposit shall be refunded to the petitioners or their attorney from the proceeds of the bonds. (R.S. Art. 8002.)

§ 57.207. Declaring Result of Election

(a) Immediately after an election under this chapter, the officials holding the election shall return the result to the commissioners court of jurisdiction.

(b) The election officials shall return the ballot boxes to the clerk of the commissioners court of jurisdiction, who shall safely keep the boxes and deliver them with the returns of the election to the commissioners court of jurisdiction at its next regular or special session.

(c) The commissioners court of jurisdiction at its first session after the election shall canvass the vote and the returns. If the proposition submitted has been approved by a majority of the electors of the district voting at the election, the commissioners court of jurisdiction shall declare the result in favor of the proposition, but if the proposition is not approved by the electors of the district, the commissioners court of jurisdiction shall declare the result to be against the proposition.

(d) The commissioners court of jurisdiction shall enter an order declaring the election result in its minutes. (R.S. Art. 8005).

§ 57.208. Issuance of Bonds

(a) If the issuance of bonds and the levy of taxes to pay for the bonds are approved by the electors of the district, the commissioners court of jurisdiction, after the election result is declared, shall order the issuance of the bonds in an amount up to the amount approved at the election, unless the board requests a smaller amount.

(b) The bonds shall be known as "Levee Improvement Bonds" and shall state on their face the purpose for which they are issued.

(c) The bonds shall be:

- (1) issued in the name of the district;
- (2) signed by the county judge of the county of jurisdiction; and
- (3) attested by the county clerk with the seal of the commissioners court of jurisdiction affixed to the bonds.

(d) The issuing authority shall fix the denominations of the bonds and make them payable at an expedient time not more than 30 years from the date on the bonds. (R.S. Art. 8007, sen. 1, 2 (part).)

§ 57.209. Approval of Bonds by Attorney General

(a) Before the bonds are offered for sale, a certified copy of all proceedings relating to organization of the district and issuance of the bonds and other relevant information shall be sent to the attorney general.

(b) The attorney general shall carefully examine the bonds, with regard to the record and the constitution and laws of this state governing the issuance of bonds, and the attorney general shall officially certify the bonds if he finds that they conform to the record and the constitution and laws of this state and are valid and binding obligations of the district. (R.S. Art. 8009 (part).)

§ 57.210. Registering Bonds

(a) After the attorney general approves and certifies the bonds, the comptroller shall register them in a book kept for that purpose and shall record the certificate of the attorney general.

(b) After the bonds are certified by the attorney general and registered by the comptroller, they are prima facie valid in any action, suit, or proceeding, and in an action brought to enforce collection of the bonds and interest on the bonds, the only defense against the validity of the bonds is forgery or fraud. (R.S. Art. 8009 (part); R.S. Art. 8010.)

§ 57.211. Sale of Bonds

(a) After the bonds are issued, approved, and registered, the commissioners court of jurisdiction may appoint the county judge or another suitable person to sell the bonds on the best terms and for the best price possible.

(b) The board shall approve all bond sales, and no sale is complete until approved by the board.

(c) The county judge or other person selling the bonds is entitled to receive, as full compensation for his services in selling the bonds, one-fourth of one percent of the amount received.

(d) The county judge or the person appointed to sell the bonds shall deduct his commission and promptly pay the proceeds from the bond sales to the proper treasurer or depository, to the credit of the district.

(e) Before making a sale, the county judge or the person appointed to sell the bonds shall execute a good and sufficient bond approved by the commissioners court of jurisdiction for an amount not less than the par value of the bonds to be sold, payable to the district, and conditioned on the faithful discharge of his duty. (R.S. Art. 8011.)

§ 57.212. Bond Record

(a) After the bonds are issued, the board shall deliver a well-bound book to the county treasurer of the county of jurisdiction, who shall keep in the book a record of:

- (1) all bonds which have been issued;
- (2) the number of each bond;
- (3) the amount of each bond;
- (4) the rate of interest on each bond;
- (5) the date of issuance of each bond;
- (6) the date when each bond is due;
- (7) the place where each bond is payable;
- (8) the amount received for each bond; and
- (9) the tax levy to provide a sinking fund to pay principal of and interest on the bonds.

(b) The treasurer shall keep the book open at all times for inspection by any taxpayer or bondholder, and when a person pays for a bond, the treasurer shall enter the payment in the book.

(c) The county treasurer is entitled to receive for his services in keeping a record of the bonds the same fee allowed by law to the county clerk for recording deeds. (R.S. Art. 8008.)

§ 57.213. Refunding Bonds

(a) With the consent of the bondholders, a district may refund outstanding bonds by issuing new coupon bonds in their place.

(b) Interest is shown by coupons attached to the bonds, and the commissioners court of jurisdiction shall determine whether the board will pay the interest on the bonds annually or semiannually.

(c) The board may pay the refunding bonds serially or in any other manner they choose, but, except as provided in Subsection (d) of this section, they shall pay the bonds not later than 40 years from the date the bonds are issued. (R.S. Art. 8018, sen. 1, 2, 3 (part).)

(d) A district that taxes on the benefit basis and that is located in a county with a population of over 390,000, according to the last preceding federal census, may refund outstanding bonds or matured interest coupons on bonds issued by the district with new coupon bonds payable not more than 75 years from their date. (R.S. Art. 8018a.)

(e) The district shall issue the bonds in denominations of \$100 or a multiple of \$100 and, before the bonds are delivered, shall levy a tax sufficient to pay the principal of and interest on the refunding bonds. The refunding of bonds does not affect any taxes already due.

(f) The board shall issue refunding bonds in the manner provided for other district bonds.

(g) The board shall deduct any money on hand in the sinking fund account to ascertain the amount of refunding bonds to be issued and shall apply the money to the payment of the outstanding bonds.

(h) The board may not issue refunding bonds until they are approved by the attorney general and registered by the comptroller, and the comptroller shall not register the refunding bonds until the old bonds being replaced are presented to him for cancellation. After the comptroller registers the new bonds, he shall cancel the old bonds and interest coupons and deliver the new bonds to the proper bondholders. The old bonds may be presented for cancellation in installments, and the comptroller may register and deliver a like amount of the new bonds. (R.S. Art. 8018, sen. 3 (part), 4, 5, 6.)

§ 57.214. Issuance of Refunding Bonds without an Election

A district which is converted under Article XVI, Section 59, of the Texas Constitution, may issue refunding bonds without the approval of the electors under the provisions of Section 56.210 of this code.

§ 57.215. Investment of Sinking Fund

The board or commissioners court of jurisdiction may invest the district's sinking funds in county, municipal, district, or other bonds in which other sinking funds may by law be invested and also may invest the sinking funds in bonds of the series to which the funds apply if the bonds are offered for redemption before maturity on terms considered advantageous to the district. (R.S. Art. 8012, sen. 2, 4.)

§ 57.216. Providing for Additional Funds

(a) If the improvements in the plan of reclamation adopted for the district are insufficient to reclaim all of the land and other property inside the district, extensive repairs or additions to the improvements are necessary, or additional funds are needed to complete improvements, the board may provide additional funds for the district by following the provisions of this chapter for raising funds for the original plan of reclamation.

(b) If the board creates additional indebtedness or issues additional bonds, the indebtedness or bonds are subject to the provisions of this chapter relating to the issuance of bonds. The new or amended plan of

reclamation must be approved by the water development board. (R.S. Art. 8030.)

[Sections 57.217 to 57.250 reserved for expansion]

SUBCHAPTER H. TAX PROVISIONS

Section 57.251. Levy of Taxes on the Ad Valorem Basis

(a) If a district levies taxes on the ad valorem basis, the commissioners court of each county in which any portion of the district is located, shall levy and have assessed and collected taxes on all taxable property in the district, based on the value of each piece of property for state and county purposes.

(b) The taxes must be sufficient to pay the interest on the bonds as it is due, and to raise a sufficient amount to create a sinking fund to redeem and discharge the bonds at maturity.

(c) The levy for each year throughout the life of the bond issue may be made at the time the bonds are issued and shall be the rate for each year until it is modified. (R.S. Art. 8012, sen. 3.)

§ 57.252. Assessment of Property in the District

The county assessor and collector shall assess all property inside the district and list it for taxation in books or rolls furnished to him by the commissioners court. The property of the district shall be assessed at the same value as it is assessed for state and county purposes. (R.S. Art. 7998, sen. 1, 4 (part).)

§ 57.253. Duties of Assessor and Collector

In assessing taxes for the district, the assessor and collector has the same powers and is governed by the same rules, regulations, and proceedings as provided by law for the assessment and collection of county and state taxes. (R.S. Art. 7998, sen. 2.)

§ 57.254. Approval of Tax Books and Rolls

The assessor and collector shall return the district's books and rolls for correction and approval to the commissioners court at the same time that he returns the books and rolls for state and county taxes. If the commissioners court finds the books and rolls correct, it shall approve them. (R.S. Art. 7998, sen. 4 (part), 5 (part).)

§ 57.255. Compensation of Assessor and Collector

(a) When the tax books and rolls are approved by the commissioners court, the assessor and collector is entitled to receive for his services an amount specified by the commissioners court, but he may not be allowed more than he is allowed by law for the same services rendered for the state and county. (R.S. Art. 7998, sen. 6.)

(b) The commissioners court shall order the county clerk to pay the assessor and collector by issuing a warrant against the county treasurer in favor of the assessor and collector payable from the funds of the district. (R.S. Art. 7998, sen. 5 (part).)

§ 57.256. Failure of Assessor and Collector to Assess District Property

If the assessor and collector fails or refuses to comply with the orders of the commissioners court requiring him to assess and list all property in the district for taxation as provided in Section 57.252 of this code, the commissioners court shall suspend him from the further discharge of his duties, and the assessor and collector shall be removed from office in the

manner provided by law for the removal of county officers. (R.S. Art. 7998, sen. 7.)

§ 57.257. Board of Equalization

The commissioners court shall be the board of equalization for the district, and all laws governing boards of equalization for county and state taxing purposes govern the board of equalization for the district. (R.S. Art. 7998, sen. 3.)

§ 57.258. Assessment and Collection of Taxes for Districts with Land in more than One County

(a) A district providing for the levy of taxes on the ad valorem basis which includes land located in more than one county has all the rights, powers, and privileges of districts that include land in one county.

(b) The assessor and collector of each county having land included in the district shall assess the taxes levied by the commissioners court of his county against the land in his county which is included in the district for each year that a tax is levied.

(c) The assessor and collector shall make a separate tax roll covering the district's taxes and shall use it as a guide in collecting the taxes for the district.

(d) The assessor and collector shall collect the taxes for the district in his county for every year that a tax has been levied. The assessor and collector shall keep a separate account covering the land in his county that is included in the district for the purpose of determining how much tax has been collected and how much of the taxes his county pays to the district. (R.S. Art. 7998, sen. 8, 9, 10, 11, 12.)

§ 57.259. Assessment of Damages

(a) In a district which levies taxes on the ad valorem basis, the commissioners of appraisement shall be appointed and shall act in the manner provided in Sections 57.261–57.270 of this code, except that persons appointed under this section may not assess benefits.

(b) Proceedings, notice, and hearings shall be governed by the provisions of this chapter relating to assessment of taxes on the benefit basis.

(c) Provisions of this chapter relating to assessment of damages in districts levying taxes on the benefit basis shall apply to assessment of taxes on the ad valorem basis. (R.S. Art. 7997.)

§ 57.260. Levy of Taxes on Benefit Basis

(a) If a district levies taxes on the benefit basis, the commissioners court of each county in which any portion of that district is located shall levy and have assessed and collected taxes on all taxable property inside the district, based on the net benefits which the commissioners of appraisement find will accrue to each piece of property from the completion of the plan of reclamation or other authorized improvement.

(b) The taxes shall be sufficient to pay the interest on the bonds, as it is due, and to raise an amount to create a sinking fund sufficient to discharge and redeem the bonds at maturity.

(c) The levy for each year throughout the life of the bond issue may be made at the time the bonds are issued and shall be the rate of levy for each year until it is modified. (R.S. Art. 8012, sen. 1.)

§ 57.261. Appointment of Commissioners of Appraisement

After the plan of reclamation is approved and adopted, the commissioners court of the county of jurisdiction in a district levying taxes on the benefit basis shall appoint three disinterested commissioners, known as "commissioners of appraisement." (R.S. Art. 7991 (part).)

§ 57.262. Qualifications for Commissioners of Appraisalment

The commissioners of appraisalment shall be freeholders, but not owners of land within the district for which they are to act, and shall not be related within the fourth degree of affinity or consanguinity to any of the members of the commissioners court of jurisdiction, the board, or to any landowners in the district. (R.S. Art. 7991 (part).)

§ 57.263. Compensation of Commissioners of Appraisalment

(a) The commissioners of appraisalment in their report shall show the number of days each has been employed and the actual expenses each has incurred during his service as commissioner.

(b) The district shall pay each commissioner of appraisalment \$5 a day for his services and reimburse him for all necessary expenses when his accounts are approved by the board. (R.S. Art. 7993, sen. 3 (part).)

§ 57.264. Organization of Commissioners of Appraisalment

(a) The secretary of the board shall notify each of the commissioners of appraisalment in writing of his appointment and of the time and place for the first meeting. (R.S. Art. 7992, sen. 1.)

(b) The commissioners of appraisalment shall meet at the time and place specified, or as soon after that time as practicable, at a time and place agreed on by them.

(c) The commissioners of appraisalment shall each take and subscribe an oath to faithfully and impartially discharge their duties as commissioners, and to make a true report of the work done by them.

(d) At the first meeting the commissioners of appraisalment shall organize by electing one of their number chairman and one vice chairman. The secretary of the board or in his absence, a person the board appoints, shall be secretary of the commissioners of appraisalment during their continuance in office.

(e) The secretary shall furnish the commissioners of appraisalment information and assist them in the performance of their duties. (R.S. Art. 7992, sen. 3.)

(f) If a commissioner of appraisalment resigns, the vacancy shall be filled in the manner provided for filling vacancies on the board. (R.S. Art. 7992, sen. 2.)

§ 57.265. Duties of Commissioners of Appraisalment

(a) The commissioners of appraisalment shall begin to perform their duties within 30 days after qualifying and organizing.

(b) The commissioners of appraisalment may at any time call on the attorney of the district for legal advice and information and, if necessary, may require the engineer or one of his assistants to assist in the proper performance of their duties.

(c) The commissioners of appraisalment shall view:

(1) the land inside the district;

(2) other land which will be affected by the plan of reclamation if carried out;

(3) all public roads, railroads, rights-of-way, and other property or improvements located on the land; and

(4) land inside or outside the district which may be acquired under the provisions of this chapter for any purpose connected with or incident to carrying out the plan of reclamation.

(d) The commissioners of appraisalment shall assess the amounts of benefits and all damages that will accrue to any tract of land inside the district or any land outside the district which may be affected by the plan of reclamation, or any public highway, railroad, right-of-way, roadway, or other property.

(e) The commissioners of appraisal shall assess the value of all land inside or outside the district to be acquired for right-of-way or other purposes. (R.S. Art. 7993, sen. 1, 2 (part).)

§ 57.266. Report of Commissioners of Appraisalment

(a) The commissioners of appraisalment shall prepare a report of their findings. The report shall include:

- (1) the name of the owner of each piece of property examined and assessed;
- (2) a description which will identify each piece of property; and
- (3) the value of all property to be taken or acquired for rights-of-way or any other purposes connected with carrying out the plan of reclamation as finally approved by the water development board.

(b) At least a majority of the commissioners of appraisalment shall sign the report. They shall file the report with the secretary of the board. (R.S. Art. 7993, sen. 3 (part).)

(c) The failure of the commissioners of appraisalment to return damages to any tract of land inside or outside the district shall be considered a finding that no damage will be done to that tract. (R.S. Art. 7993, sen. 2 (part).)

(d) The commissioners of appraisalment in their report shall fix a time and place to hear objections to the findings in the report. The date for the hearing shall not be less than 20 days from the filing of the report. (R.S. Art. 7993, sen. 4.)

§ 57.267. Notice of Hearing

(a) After the commissioners of appraisalment file their report with the secretary of the board, the secretary shall publish notice of the time and place of the hearing on the report.

(b) The notice shall be published in a newspaper published in each county in which any part of the district is located, or in which any land lies that will be in any way affected by the proposed plan of reclamation. The notice shall be published once a week for two consecutive weeks before the date of the hearing.

(c) The notice shall be in substantially the following form:

To the owners and all other persons having any interest in land lying in _____ County, take notice, that a copy of the plan of reclamation of the _____ Levee Improvement District has been filed with the county clerk of this county and that the commissioners of appraisalment have been appointed to assess benefits and damages accruing to land or other property inside or outside the levee district which will be benefited, taken, damaged, or affected in some way by the carrying out of the plan of reclamation. The report of the commissioners of appraisalment has been filed in my office at _____, and all interested persons may examine the report and make an objection to all or any part of the report. A person who claims damage to his land and to whose land no damages have been assessed in the report must file a claim for damage in my office on or before _____, 19____. A person who fails to make an objection or to file a claim for damages is deemed to have waived his right to object or claim damages. The commissioners of appraisalment will meet on _____, 19____, to hear and act on objections to their report and claims for damages.

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(d) The secretary shall mail written notice to each person whose property is listed in the report of the commissioners of appraisal, if the office address is known. This notice shall state in substance:

(1) that the report of the commissioners of appraisal assessing benefits and damages accruing to land and other property because of the plan of reclamation for the district has been filed in the secretary's office;

(2) that all persons interested may examine the report and make objections to it in whole or in part; and

(3) that the commissioners of appraisal will meet on the day and at the place named to hear and act on objections to the report.

(e) The secretary, on the day of the hearing, shall file in his office the original notice, with his affidavit, which shall show the manner of publication and the names of all persons to whom notices have been mailed. The affidavit shall state that the secretary could not with reasonable diligence ascertain the post-office addresses of those affected to whom no notices were mailed.

(f) The secretary shall file copies of the notice and his affidavit with the commissioners of appraisal and with the clerk of the commissioners court of jurisdiction. (R.S. Art. 7994.)

§ 57.268. Rights of Parties

Parties interested in matters before the commissioners of appraisal may appear in person or by attorney, or both, and are entitled to process for witnesses, to be issued by the chairman of the commissioners of appraisal on demand. The commissioners of appraisal have the same power as a court of record to enforce the attendance of witnesses. (R.S. Art. 7996, sen. 2.)

§ 57.269. Hearing; Judgment

(a) An owner of land or other property affected by the report of the commissioners of appraisal or by the plan of reclamation may file an objection to any or all parts of the report of the commissioners of appraisal at or before the hearing on the report.

(b) A person on whose land no damages have been assessed and who believes that his land will be damaged by prosecution of the plan of reclamation may file with the secretary of the board a claim for damages.

(c) The commissioners of appraisal, at the time and place named in the notice, shall hear and decide all objections and claims for damages and may make changes and modifications in the report.

(d) The commissioners of appraisal may adjourn the hearing from day to day.

(e) After modifying the report to conform to the changes decided on at the hearing, the commissioners of appraisal shall make a decree confirming the report as modified.

(f) If necessary the commissioners shall condemn and adjudge damages for land inside or outside the district that is needed for right-of-way or other purposes.

(g) The commissioners shall adjudge and apportion costs incurred on the hearing in an equitable manner.

(h) The findings of the commissioners of appraisal as to benefits is final and conclusive.

(i) The secretary shall record the findings of benefits in the minutes of the board and shall file certified copies of the findings with the county clerk of each county in which any portion of the land inside the district is located, as a permanent record of the county. The filing is notice to all persons of the contents of the decree. (R.S. Art. 7995, sen. 1, 2, 3, 4, 5.)

§ 57.270. Appeal of Decree of the Commissioners of Appraisalment

(a) A person or the board may appeal from the decree of the commissioners of appraisalment assessing or refusing to assess damages or fixing the value of a right-of-way.

(b) The only questions considered on an appeal are:

(1) whether or not just compensation has been allowed for property taken;

(2) whether or not proper damages have been allowed for property injured; or

(3) whether or not in fact property has been damaged.

(c) The appeal shall be taken to the district court of the county of jurisdiction in the manner, under the conditions, and within the time provided by Sections 57.020–57.025 of this code for appeals from judgments of the commissioners court refusing to create the district.

(d) The district court has jurisdiction of the appeal regardless of the amount claimed.

(e) The secretary in not less than five days after the appeal is filed shall send to the district clerk:

(1) the plan of reclamation or a certified copy of it;

(2) a transcript of that part of the commissioners of appraisalment's report affecting the lands concerned in the appeal;

(3) a transcript of the claim for damages; and

(4) a transcript of the action of the commissioners of appraisalment on the claim.

(f) Appeals may be consolidated in the district court.

(g) The trial in the district court shall be de novo, and the proceedings shall be in accordance with the laws of this state for damage suits.

(h) The claimant is considered the plaintiff, and the district, the defendant, and no further pleadings are required.

(i) Appeals may be taken from the judgment of the district court as in other civil cases.

(j) No appeal may delay carrying out the plan of reclamation, and if the board pays to the district clerk the amount of damages awarded by the commissioners of appraisalment to a claimant who is appealing their decree, and if the board makes bond to pay to the claimant any additional amount that he may be awarded on his appeal, title to the condemned property that is the subject of the appeal vests in the district, and the district is entitled to immediate possession.

(k) No person may claim damages against the district, its board, officers, or agents because of the prosecution of the plan of reclamation if he owns or has an interest in land in a county in which a copy of the plan of reclamation has been filed and in which notice has been published of the hearing before the commissioners of appraisalment, and he has failed to file a claim for damages or an objection to the damages assessed by the commissioners of appraisalment against his land, or if he has filed a claim or objection but has failed to appeal from an adverse ruling on his claim or objection. (R.S. Art. 7995, sen. 6, 7, 8, 9, 10, 11, 12.)

§ 57.271 Basis of Taxation

(a) After the action of the commissioners of appraisalment, as provided in Sections 57.261–57.270 of this code, their final findings, judgment, and decree assessing benefits, until changed or modified, shall form the basis of taxation for the district, for all purposes for which taxes may be levied by the district.

(b) Taxes shall be apportioned and levied on each tract of land, railroad, and other real property in the district in proportion to the benefits to the property named in the decree of the commissioners of appraisalment. (R.S. Art. 7996, sen. 1.)

§ 57.272. Tax Assessor for Districts Levying Taxes on Benefit Basis

(a) The secretary of the board shall serve as tax assessor for a district levying taxes on the benefit basis.

(b) When a tax is levied, the secretary shall, at the expense of the district, prepare a tax roll substantially in the same form as the assessment roll made by county assessor and collector, except the roll shall state net benefits assessed against property.

(c) The secretary shall compute the amount of taxes assessed against each piece of property and enter the amount on the tax roll and shall file with the assessor and collector of each county in which a portion of the district is located a certified copy of the part of the tax roll which relates to property in the district located in that county. (R.S. Art. 8014.)

§ 57.273. Readjusting Assessments

(a) After one year from the date of the final judgment and decree of the commissioners of appraisement the owners of a majority of the acreage in the district may file a petition with the commissioners court alleging that the previous assessment of benefits in the judgment and decree is insufficient or inequitable and requesting an increase or readjustment of the assessment of benefits for the purpose of making an adequate or more equitable basis for levying taxes.

(b) If the plan of reclamation is changed or modified, or if extensive repairs or additions to the plan of reclamation are desired, the board shall file a petition with the commissioners court describing the changes, modifications, repairs, or additions.

(c) When a petition is filed, the commissioners court shall set a day for a hearing on the petition.

(d) The commissioners court shall issue notice informing all persons concerned of the time and place of the hearing, and of their rights to appear and contend for or contest a reassessment of benefits. The notice must be posted as provided in Section 57.015 of this code for posting notice of the hearing for establishing the district. (R.S. Art. 8031.)

§ 57.274. Hearing on Petition for Reassessment

(a) At the hearing on readjustment of assessments, the commissioners court shall hear the petition and receive evidence for or against the petition.

(b) The commissioners court shall order a reassessment of benefits if it finds that the aggregate amount of assessed benefits as shown by the previous final judgment and decree is insufficient to carry out the original plan of reclamation or changes, repairs, or additions to the plan or there has been a material change in the relative value of the benefits conferred on the property in the district, or for some reason the assessment of benefits is inadequate or inequitable.

(c) If the commissioners court orders a reassessment, it shall appoint commissioners of appraisement as provided in Section 57.263 of this code, and the new commissioners of appraisement have the same powers, rights, privileges, and duties as provided in Section 57.267 of this code. (R.S. Art. 8032.)

§ 57.275. Tax Collection on Reassessment

(a) The judgment and decree of the commissioners of appraisement reassessing benefits in the district are the basis of the assessment of taxes in the district.

(b) The assessment can again be modified or changed but there can be no reassessment of benefits that will in any way render any outstanding bonds or other indebtedness of the district insecure. The sum of benefits as reassessed may never be less than the sum of all outstanding bonds and other indebtedness of the district.

(c) The commissioners court of each county in which the district is located shall levy and have assessed and collected taxes based on the reassessment, at a rate sufficient to provide funds to pay the interest on all outstanding bonds and other indebtedness of the district, to pay the bonds or other indebtedness at maturity, and to provide the necessary sinking funds to pay all bonds or other indebtedness that may be issued.

(d) If the plan of reclamation is modified, or if extensive repairs or additions are made, the provisions of this section apply to districts that levy taxes on the ad valorem basis, but the commissioners of appraisal shall assess only the damages which will accrue to the property inside or outside the district as a result of the changes in the plan. (R.S. Art. 8033.)

§ 57.276. Maintenance Tax Election

(a) If the board desires an election in the district on the question of a maintenance tax or other proposition, they shall petition the commissioners court of jurisdiction for an election.

(b) The commissioners court shall order the election, and notice shall be given and the election shall be held according to the provisions of Sections 57.203–57.207 of this code. (R.S. Art. 8006.)

(c) The proposition in a maintenance tax election may be for a specific tax rate, or for a specific maximum rate. (R.S. Art. 8013, sen. 1 (part).)

§ 57.277. Levy of Maintenance Tax

(a) If a maintenance tax is approved at an election, the commissioners court of each county in which any portion of the district is located shall levy and have assessed and collected taxes on all taxable property inside the district based on the net benefits to the property that will be accomplished by the plan of reclamation if the district provides for levying taxes on a benefit basis or on the value of each piece of property as made for state and county purposes if the district provides for levying taxes on the ad valorem basis.

(b) The tax rate shall not be more than the specific rate approved at the election.

(c) The district shall use money obtained from the maintenance tax only for maintenance, upkeep, and repair, to make additions to the levees and other improvements in the district, and for other purposes stated in this chapter. (R.S. Art. 8013, sen. 1 (part), 2.)

§ 57.278. Repeal of Right to Levy Maintenance Tax

(a) The district may levy a maintenance tax until the authority to levy a maintenance tax is repealed by another election.

(b) The district may not hold elections on the question of repealing or reducing the maintenance taxes more often than every five years. (R.S. Art. 8013, sen. 3 (part).)

§ 57.279. Collection of Delinquent Taxes

(a) Taxes levied under this chapter are a first and prior lien on all property against which they are assessed and are payable, mature, and become delinquent as provided by law for state and county taxes.

(b) The collection of delinquent taxes and the sale of property for the payment of the taxes is governed by the law relating to the collection of delinquent state and county taxes, and the district assessor and collector shall have the same duties and powers for collecting delinquent taxes as the county tax assessor and collector has for collecting delinquent state and county taxes.

(c) The board also may collect delinquent taxes and may institute and prosecute suits in the name of the district to collect the taxes, and the district may do all other things necessary to collect delinquent taxes. (R.S. Art. 8016, sen. 1 (part), 2, 3.)

§ 57.280. Suits to Collect Delinquent Taxes

(a) The board may collect delinquent taxes by bringing suit in the name of the district for the collection of the taxes and the foreclosure of the lien on the property. The suit shall be brought in the district court of the county in which the land or the major part of the land is located.

(b) The board is not required to publish a delinquent tax list or give other delinquent tax notice before proceeding to bring suit to collect the delinquent taxes. (R.S. Art. 8017, sen. 1 (part), 7, as amended.)

§ 57.281. Employing Attorneys

(a) The board may employ an attorney to collect delinquent taxes, and may determine the fees or commissions to be paid to the attorney for his services. (R.S. Art. 8017, sen. 13, as amended.)

§ 57.282. Notice

(a) An action to collect delinquent taxes shall be in the nature of a proceeding in rem, and jurisdiction of landowners and other parties interested can be obtained by publication of a general notice of the proceeding.

(b) The notice shall be published once each week for at least four consecutive weeks in a newspaper with general circulation published in the county or counties in which the district is located, and if no paper is published in the county, then the notice shall be published in a newspaper in the nearest county where a paper is published.

(c) A written notice shall be mailed to the last known address of the landowner and shall be substantially in the following form:
 _____ County Levee Improvement District No. _____
 vs. delinquent land in _____ County and the district. In the district court of _____ County, Texas, _____ Judicial District
 _____ Term, 19____.

Notice is given to all parties having or claiming an interest in any of the following described land that on the ____ day of _____, 19____, suit was filed in the district court of _____ County, Texas, at _____, Texas, to enforce the collection of certain levee district taxes on the following described land.

The name of each supposed owner is set opposite his land, together with the amount due on each tract, to wit:

(The list of supposed owners, with a description list of the delinquent land, and the amount due on each tract.)

All persons or corporations having or claiming an interest in the listed lands are notified to appear at the next regular term of the district court of _____, County, Texas, to be held at the courthouse in _____, on the _____ Monday in _____, 19____, the _____ day of _____, 19____, then and there to answer a petition filed in the court in the above numbered and entitled cause. If an answer is not filed, final judgment will be entered directing the sale of the land for the purpose of collecting the delinquent taxes, and payment of interest, penalties, attorney's fees, and other costs allowed by law.

Given under my hand and the seal of the court in the city of _____, Texas, this _____ day of _____ A.D. 19____.

 Clerk of the District Court of
 _____ County, Texas.

Issued this _____ day of _____ A.D. 19____.

 Clerk of the District Court of
 _____ County, Texas.

(d) The publication of the notice of the suit to collect the taxes and the written notice addressed to the last known address of the landowner shall be sufficient service of process against any owner, vendor, mortgagee, heir, or other person claiming an interest in the land, and the judgment in the case is binding on each tract of land and the owner of every interest in the land. (R.S. Art. 8017, sen. 2, 3, 4, 5, 6, as amended.)

§ 57.283. Procedure for Suit to Collect Delinquent Taxes

(a) Suits brought to collect taxes shall be conducted according to the practice and procedure of the district court, except as otherwise provided in this chapter.

(b) In a suit to collect taxes it is sufficient to:

(1) allege generally and briefly the organization of the district and the nonpayment of the taxes;

(2) give a reasonable description of the land involved and the amount charged to each tract;

(3) request a foreclosure. (R.S. Art. 8017, sen. 9 (part), 10, as amended.)

(c) If the ownership of the land is incorrectly alleged in the proceedings, it is immaterial. (R.S. Art. 8017, sen. 1 (part), as amended.)

(d) A defendant in a suit to collect taxes may not use as a defense an irregularity in the assessment of the land, or a mistake in the name of the owner, the number of acres, or the amount of the taxes, interest, and penalty as alleged in the pleadings or in the notice of the suit; but the correct amount of taxes, interest, and penalty due may be proved and the judgment rendered on the correct amount. (R.S. Art. 8017, sen. 9 (part), as amended.)

(e) When the notice, petition, and answer have been filed with the clerk of the district court, he shall place the case on the docket, and the case has precedence over all other cases. (R.S. Art. 8017, sen. 8, as amended.)

(f) The district court may grant a continuance only for good cause shown and may grant a continuance in suits involving part of the land and proceed to hear and decide suits on which no continuance is granted. (R.S. Art. 8017, sen. 11, as amended.)

(g) The procedure provided for collection of delinquent taxes is cumulative, and does not repeal or supersede any other procedure provided in this chapter for the collection of taxes. (R.S. Art. 8017, sen. 14, as amended.)

§ 57.284. Judgment; Sale of Land

(a) In a suit to collect delinquent taxes, if the ruling is in favor of the district, the court shall enter judgment against each tract of land for the amount of the delinquent taxes plus penalties, interest, attorney's fees, and costs.

(b) The judgment shall provide for the sale of each tract of land by the sheriff or a constable of the county in which the land is located. The land shall be sold in the manner provided for other judicial sales of land. (R.S. Art. 8017, sen. 1 (part), as amended.)

(c) The foreclosure decree on the land shall include a writ of possession.

(d) If all the land and other real property that is the subject of the foreclosure decree is not sold on the date advertised, the sales shall continue from day to day until completed.

(e) The sheriff or constable shall by proper deed convey to the purchaser the land sold, and the title of the land becomes vested in the purchaser, good against all others except the former owner, who for two years from the date of the purchaser's deed has the right to redeem the

land by paying double the amount of money paid for the land. (R.S. Art. 8017, sen. 12 (part), as amended.)

[Sections 57.285 to 57.320 reserved for expansion]

SUBCHAPTER I. DISSOLUTION

Section 57.321. Dissolution of a District

Subject to the provisions of Sections 50.251–50.256 of this code, if the commissioners court finds at any time before the sale of a district's bonds or final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully accomplished, the commissioners court may dissolve the district. (R.S. Art. 8029, sen. 1 (part).)

§ 57.322. Requirements for Dissolving a District

(a) To dissolve a district, a petition signed by the owners of a majority of the acreage in the district requesting the commissioners court to dissolve the district and stating the reasons for dissolution must be presented.

(b) At the time the petition is filed, a \$50 deposit shall be made to pay for the expenses of a hearing on the petition.

(c) The petition shall be set for a hearing, notice shall be given, the hearing held, and the expense deducted from the deposit in the manner provided in this chapter for creation of the district.

(d) The commissioners court has the same powers over dissolution of a district that it has over creation of a district.

(e) If at the hearing the commissioners court finds that the district should be dissolved, it shall render a judgment reciting its findings and enter an order on its records declaring the district dissolved.

(f) The commissioners court shall appoint the chairman of the board or some other suitable person as trustee to close the affairs of the district without delay, and shall determine the length of the term and the amount of compensation for the trustee.

(g) If the commissioners court finds that the district should not be dissolved, it shall dismiss the petition at the cost of the petitioners and enter its findings on record. (R.S. Art. 8029, sen. 1 (part), 2, 3, 4.)

§ 57.323. Return of Taxes on Dissolution

(a) If a district is dissolved, the commissioners court shall order returned to the taxpayers ratably any unspent taxes that have been levied and collected in the name of the district in anticipation of an issue of bonds.

(b) Before the taxes are returned, the compensation due the assessor and collector and the treasurer and any other claim properly charged against the taxes must be deducted from them.

(c) The treasurer shall receive and file proper receipts for all sums refunded. (R.S. Art. 8029, sen. 5.)

§ 57.324. Dissolving a District by Election

A district may dissolve its corporate existence by election. (R.S. Art. 8029—a, sen. 1, as added.)

§ 57.325. Petition

To dissolve a district by election, a person shall present a petition, signed by the owners of a majority of the acreage in the district, to the

commissioners court at a regular session, requesting the commissioners court to dissolve the district. (R.S. Art. 8029—b, sen. 1 (part), 2, as added.)

§ 57.326. Election Order

(a) After it receives a petition under Section 57.325 of this code, the commissioners court shall order an election to be held in the district at the earliest possible legal time to determine whether or not the district should be dissolved. (R.S. Art. 8029—b, sen. 1 (part), as added.)

(b) If the proposition to dissolve the district fails to carry at the election, the commissioners court may not order another election for the same purpose within one year after the result of the election has been announced officially. (R.S. Art. 8029—a, sen. 2, as added.)

§ 57.327. Election Procedure, Time, and Place for Holding Election

The provisions of Sections 57.203–57.207 of this code apply, so far as possible, to a dissolution election. (New.)

§ 57.328. Ballot

The commissioners court shall have the ballots printed to provide for voting for or against the following proposition and no other: “Dissolving the levee improvement district.” (R.S. Art. 8029—c, sen. 4, as added.)

§ 57.329. Vote Necessary to Carry Proposition

More than two-thirds of the persons voting in the election must vote to dissolve the district to carry the proposition. (R.S. Art. 8029—c, sen. 3, as added.)

§ 57.330. Commissioners Court Order Dissolving District

(a) If the proposition to dissolve the district carries, the commissioners court shall make an order substantially as follows: “(Name of petitioner) and (number of other petitioners) others presented a petition asking for an election to decide whether or not (name of county) County Levee Improvement District (district number) should be dissolved. The commissioners court held the election on (date), and more than two-thirds of the resident property taxpayers voting in the election voted to dissolve the district. As a consequence of the election result, (name of county) County Levee Improvement District (district number) is dissolved.”

(b) The commissioners court shall enter the order in its minutes. (R.S. Art. 8029—d, sen. 1 (part), 2, as added.)

§ 57.331. Dissolution Trustees

The commissioners court shall appoint as trustees, three landowners of the district, and the three appointed landowners assume the duties of trustees at the time they file the bond required under Section 57.332 of this code. (R.S. Art. 8029—g, sen. 1 (part), as added.)

§ 57.332. Trustees' Bond

(a) When the commissioners court issues the dissolution order under Section 57.330 of this code, the trustees shall execute jointly a good and sufficient bond in an amount sufficient to cover the amount of the outstanding bonds and other debts of the district, payable to and approved by the county judge, conditioned on the trustees faithfully performing their duties as trustees and paying money and delivering other property of the district over which they have control to the persons entitled to the money or other property.

(b) When the bond is executed, it shall be recorded in the minutes of the commissioners court. When the bond is approved, it supersedes the bond the treasurer executed under Section 57.065 of this code. (R.S. Art. 8029—g, sen. 1 (part), 2, 3, as added.)

§ 57.333. Trustees' Compensation

(a) The trustees are entitled to receive for their services as trustees a one-half of one percent commission on all money they receive for the district and a one-half of one percent commission on all money they pay out as trustees. This commission is the entire compensation for all three trustees.

(b) The trustees are not entitled to a commission on money in the treasury when they become the trustees or on money in the treasury when their trusteeship ends. (R.S. Art. 8029—o, sen. 1, 2, as added.)

§ 57.334. Appointment of Trustee to Fill Vacancy

In case of death or resignation of a trustee, the commissioners court shall appoint a successor to fill the vacancy. (R.S. Art. 8029—q, as added.)

§ 57.335. General Duties of Trustees

(a) The trustees have control of the disposition and sale of all district property. (R.S. Art. 8029—g, sen. 1 (part), as added.)

(b) The trustees have control of all the property of the district, including the money in the treasury, and shall keep the district's money and all its books, notes, accounts, and choses in action of every kind.

(c) The trustees may sue to recover property and collect debts of the district, and may employ counsel in suits and in caring for the district's property and managing the district's dissolution. (R.S. Art. 8029—h, as added.)

§ 57.336. Trustees' Expense

(a) The trustees shall make a charge against the trust estate for each reasonable expense incurred by them in conducting the business of the district and in litigating a suit for the district.

(b) The trustees shall charge any unpaid counsel fees or court costs incurred by former district officers against the trust estate.

(c) The trustees shall present the charges against the trust estate to the commissioners court and shall post notice in the manner provided for other claims against the district.

(d) If the commissioners court approves a charge against the trust estate, the charge becomes a valid, preferred claim against the district.

(e) The trustees, acting as treasurer, may retain money in their control to pay for a valid claim which they have against the district.

(f) If the commissioners court rejects a part of an expense which the trustees think is a valid claim, the trustees may appeal the decision as other claimants. (R.S. Art. 8029—n, as added.)

§ 57.337. Claims that Were Approved before District Was Dissolved

The trustees shall pay all unpaid bonds and claims outstanding against the district before the commissioners court issues the dissolution order except those which are protested according to the provisions of Section 57.338 of this code. (R.S. Art. 8029—j, sen. 3, as added.)

§ 57.338. Protesting Payment of Claims Approved before District Was Dissolved

(a) If a person who pays taxes in the district protests the payment of a claim filed under Section 57.337 of this code, the trustees shall refuse to pay the claim.

(b) The protest is sufficient to cause the trustees to disallow the claim if the person making the protest files the protest with the trustees, along with a bond for twice the amount of the claim, signed by sufficient sureties approved by the trustees, payable to the trustees, and conditioned on the protesting taxpayer's¹ paying all costs of suit if the claimant establishes his claim in full.

(c) A person whose claim is disallowed under this section may sue the trustees for the amount he claims. (R.S. Art. 8029—m, sen. 1, as added.)

¹ So in enrolled bill.

§ 57.339. Claims not Approved Before District Was Dissolved

(a) A person who has a claim or judgment against the district which was not approved by the commissioners before the district was dissolved may collect on the claim only by following the procedure prescribed in this section and Sections 57.340–57.342 of this code. (R.S. Art. 8029—i, sen. 1 (part), as added.)

(b) The person must present the claim, duly verified, to the trustees within six months after the day the commissioners court approves the bond of the trustees. (R.S. Art. 8029—i, sen. 1 (part), as added.)

(c) The trustees shall examine the claim, and if the trustees find that the claim is correct, they shall allow it. If the trustees allow the claim, the person making the claim must file it with the county clerk not less than 20 days before the beginning of the regular session of the commissioners court that follows the date the trustees allowed the claim. (R.S. Art. 8029—i, sen. 2 (part), as added.)

(d) If the trustees find that it would be unjust for them to allow a claim, they shall endorse on the claim their refusal to allow it, and the person making the claim may sue the trustees for the amount he claims in any court of competent jurisdiction in the county. (R.S. Art. 8029—k, sen. 1 (part), as added.)

(e) If the trustees find that it would be unjust for them to allow part of the claim, they shall endorse on the claim the parts of it they allow and the parts they disallow. The person making the claim may either waive his claim to the part disallowed and file the claim with the commissioners court or refuse to waive his claim to the part disallowed, withdraw the claim from the trustees, and sue the trustees for the amount he claims. (R.S. Art. 8029—k, sen. 2, 3, as added.)

§ 57.340. Claims, Payment Orders, and Appeals

(a) The commissioners court, in a regular session, shall pass on claims. The commissioners court shall approve each claim it finds to be correct and shall issue an order stating that approval and shall enter the order in its minutes. (R.S. Art. 8029—j, sen. 1 (part), as added.)

(b) When the order of approval is entered in the minutes, the claim becomes a valid claim against the district. (R.S. Art. 8029—j, sen. 1 (part), as added.)

(c) If the commissioners court approves a claim under this section, the person making the claim shall file the claim with the trustees. (R.S. Art. 8029—j, sen. 2 (part), as added.)

(d) If the person making the claim is not satisfied with the terms of the order of approval or if the commissioners court refuses to approve the claim, the person may appeal the decision of the commissioners court. (R.S. Art. 8029—l, as added.)

(e) When a claim is filed under Section 57.339 of this code, the county clerk shall immediately issue notice of the filing to all persons interested in the district. The notice shall be posted in three public places in the district and at the courthouse door not less than 20 days before the next regular session of the commissioners court. (R.S. Art. 8029—i, sen. 2 (part), 3, as added.)

§ 57.341. Claims Judgments

(a) If a person making a claim sues the trustees for the amount of the claim and wins a judgment against the trustees, the person shall file the judgment with the trustees. (R.S. Art. 8028—m, sen. 3 (part), as added; R.S. Art. 8029—k, sen. 1 (part), as added.)

(b) If the suit contests a claim under Section 57.338 of this code, the contestant and his sureties shall be made parties to the suit, and the trustees shall assert all defenses urged against the claim in the protest. If the claimant wins a judgment for the whole amount of his claim, the court shall render a judgment against the contestant and his sureties for all costs incurred in the suit. (R.S. Art. 8029—m, sen. 2, 3 (part), as added.)

§ 57.342. Claims to be Paid

The trustees shall pay from money left in the district's treasury on dissolution claims filed with them under Sections 57.336, 57.337, and 57.339 of this code, in the order that the claims are filed. (New.)

§ 57.343. Disposition of Debts after Election

(a) If the district is dissolved, the commissioners court shall provide for the settlement of the debts of the district, including the costs and expenses of holding the election.

(b) The commissioners court may levy, assess, and collect a sufficient tax on the property in the district in the manner provided in this chapter, to pay all the valid debts and obligations of the district, except bonds issued and held by a purchaser.

(c) The district shall pay bonds that have been issued and are held by a purchaser according to the terms of the bonds by levy and collection of an annual tax as provided in this chapter unless retirement of the bonds is effected as provided in Section 57.344 of this code. (R.S. Art. 8029—e, as added.)

§ 57.344. Accelerated Retirement of Bonds

(a) If there are any district bonds outstanding at the time the commissioners court issues the dissolution order, the commissioners court shall immediately begin negotiations with the holders of the bonds to determine whether or not the retirement of the bonds can be accelerated.

(b) If the bonds can be retired at an earlier date than the date stipulated on their face, either as a result of the terms of the bonds or because of an agreement between the commissioners court and the holders of the bonds, then the commissioners court may levy a tax to pay off the bonds as quickly as possible.

(c) The commissioners court shall have the tax assessed and collected annually or at one time. (R.S. Art. 8029—f, as added.)

§ 57.345. Compensation for Tax Assessor and Collector

(a) The county assessor and collector is entitled to receive the same compensation for assessing and collecting taxes authorized by Sections 57.343 and 57.344 of this code as he receives for assessing and collecting taxes under Subchapter H of this chapter.

(b) The commissioners court shall provide for the assessor and collector's compensation in the order of the commissioners court assessing the taxes. (R.S. Art. 8029—o, sen. 3, as added.)

§ 57.346. Final Trustee Report

(a) After the trustees pay all valid claims established against the district and satisfy the cost and expenses of controlling and managing the

district, they shall file a report of the final settlement with the commissioners court.

(b) The trustees shall include in the report:

(1) a full and complete account of all money received and paid during their trusteeship;

(2) an account of the disposition of all property which came under their control as trustees; and

(3) an account of all other matters relating to the management of the affairs of the district.

(c) On the approval of the report, the commissioners court shall direct the trustees to turn over any property or money remaining in their control to the person designated by the commissioners court to receive the money or property.

(d) When the trustees have complied with the direction of the commissioners court, they shall report their compliance to the commissioners court. After the trustees have reported their compliance, the commissioners court shall discharge the trustees and their sureties and close the trust estate. (R.S. Art. 8029—p, as added.)

CHAPTER 60. NAVIGATION DISTRICTS—GENERAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Section

60.001. Definitions.

[Sections 60.002 to 60.010 reserved for expansion]

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SUBCHAPTER K. DEPOSITORY

- 60.271. Selection of Depository.
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SUBCHAPTER A. GENERAL PROVISIONS**Section 60.001. Definitions**

In this chapter:

- (1) "District" means a navigation district organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.
- (2) "Commission" means the navigation and canal commission. (New.)

[Sections 60.002 to 60.010 reserved for expansion]

SUBCHAPTER B. RETIREMENT, DISABILITY, AND DEATH COMPENSATION FUND**Section 60.011. Creation of Retirement, Disability, and Death Compensation Fund**

(a) The commission of any district created under this code or by special law may provide for and administer a retirement, disability, and death compensation fund for district officers and employees and may adopt plans to effectuate this purpose.

(b) The plans may include forms of insurance or annuities, or a combination of both, which the commission considers advisable.

(c) After notice to employees and a hearing, the commission may change the plan or any rule or regulation. (54th Legis., Ch. 252, Sec. 1.)

§ 60.012. Investment of Funds

(a) Money in the retirement, disability, and death compensation fund shall be invested as provided in Subsections (b) and (c) of this section, and the commission may change from one method of investment to the other or to any combination of the two.

(b) The money in the retirement, disability, and death compensation fund may be invested in bonds of:

- (1) the United States;
- (2) the State of Texas;
- (3) county, city, or other governmental subdivisions of the State of Texas; or
- (4) any agency of the United States, if payment of principal and interest is guaranteed by the United States.

(c) The money in the retirement, disability, and death compensation fund also may be invested in:

- (1) life insurance policies;
- (2) endowment or annuity contracts; or
- (3) interest-bearing certificates of legal reserve life insurance companies authorized to write such contracts in Texas.

(d) If the method of investment authorized under Subsection (b) of this section is followed, the commission shall keep a sufficient amount of money in the fund to meet amounts likely to become due each year. (54th Legis., Ch. 252, Sec. 2 (part).)

§ 60.013. Eligibility for Other Pension Funds

The recipients or beneficiaries of a fund created under Section 60.011 of this code shall not be eligible for any other pension retirement funds or direct aid from the State of Texas unless the fund provided for in Section 60.011 of this code is released to the State of Texas as a condition precedent to receiving the other pension aid. (54th Legis., Ch. 252, Sec. 2 (part).)

§ 60.014. Hospitalization and Medical Benefits

(a) The commission may include hospitalization and medical benefits for officers and employees as part of the compensation paid to the officers and employees.

(b) The commission may provide for the benefits in Subsection (a) of this section by plan, rule, or regulation, and may change any plan, rule, or regulation from time to time. (54th Legis., Ch. 252, Sec. 3.)

[Sections 60.015 to 60.030 reserved for expansion]

SUBCHAPTER C. ADDITIONAL POWERS AND DUTIES OF CERTAIN DISTRICTS

Section 60.031. Application of Subchapter

The provisions of this subchapter shall apply to any district not participating with the United States in a navigation project. (44th Legis., Ch. 134, Sec. 1 (part), as amended.)

§ 60.032. Authority to Construct Improvements

The district may construct out of any of its funds, except interest and sinking funds, turning, storage, or yacht basins, harbors, or any facilities which may, in the judgment of the commission, be necessary or useful in the development and utilization of a waterway project for navigation purposes or in aid of navigation purposes. The district may own or lease dredges and other equipment for the construction or maintenance of those projects. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.033. Use of Equipment

(a) This subchapter does not authorize a district to borrow or receive money or to levy taxes for the purpose of building tugs, barges, scows, dredges, pile drivers, or other floating equipment for use on the water of the United States other than water coming under the jurisdiction of the district or water necessarily adjunctive to the use of the district, as set forth in Section 60.031 of this code.

(b) Dredges or other equipment, whether owned or leased, shall be confined to use on water under control of the district or a necessary adjunctive part of the district and may not be used in any work or service on any state or federal waterway which is not a necessary adjunctive part of the district. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.034. Oil, Gas, and Mineral Leases

The commission may lease for oil, gas, and minerals rights-of-way, spoil grounds, spoil basins, or any other land owned by a navigation district if it does not interfere with use of or obstruct any natural or artificial waterway of the district used for navigation purposes. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.035. Notice of Oil, Gas, and Mineral Lease

(a) Before a lease may be executed by the commission under Section 60.034 of this code, the commission shall have a notice requesting bids on the lease published in a newspaper of general circulation in the district. The notice shall be published at least once a week for two consecutive weeks before the final date for the receipt of bids.

(b) The notice shall include:

- (1) the approximate amount of land offered;
- (2) the general location of the land;
- (3) the time and place for receipt of bids;

- (4) the place where specifications may be obtained;
- (5) information concerning security for the bids; and
- (6) a statement that the commission reserves the right to reject any or all bids. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.036. Security for Bid on Oil, Gas, or Mineral Leases

Each bid submitted shall be accompanied by a certified check, cashier's check, or bidder's bond with a responsible corporate surety authorized to do business in Texas. The check or bond shall be in an amount equal to the first rental payment and bonus offered for the lease over and above the royalty and shall guarantee that the bidder will perform the terms of his bid if it is accepted by the commission. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.037. Award and Execution of Oil, Gas, and Mineral Leases

(a) The commission may lease all or any part of land advertised for lease under Section 60.035 of this code.

(b) The lease shall be awarded to the highest and best bidder and shall reserve at least one-eighth royalty of all gas, oil, or minerals in or produced on the land. The lease shall contain other provisions reasonably necessary to protect the interests of the district and may not be less favorable to the district than customary commercial leases in the locality.

(c) The chairman and secretary of the commission shall execute the lease under an order, entered in the minutes of the commission, which shall include the consideration for the lease. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.038. Sale or Lease of Land

(a) A district may sell or lease all or any part of land owned by it, whether the land is acquired by gift or purchase, in settlement of any litigation, controversy, or claim in behalf of the district, or in any other manner.

(b) Land which is sold or leased shall be declared surplus land and shall not be needed for use by the district in connection with the development of a navigation project.

(c) Sale or lease of land shall be made as provided by Sections 60.039-60.042 of this code. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.039. Surface Lease for not more than Five Years

The commission may lease the surface of land for not more than five years by the entry of an order on the minutes of the commission and the execution of a lease in the manner provided by the original order. The lease may not be extended beyond the five-year period by renewal, extension, or otherwise. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.040. Publication of Notice for Sales and Leases in Excess of Five Years

Before making a sale or lease of land for more than five years, the commission shall publish a notice in the manner provided in Section 60.035 of this subchapter. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.041. Security for Bids on Land to be Sold or Leased for more than Five Years

Each bid submitted on land to be sold or leased for more than five years shall be accompanied by a certified check, cashier's check, or bid-

der's bond with a responsible corporate surety authorized to do business in Texas. The check or bond shall be in an amount equal to the bid for the land or for the first rental payment under the lease and shall guarantee that the bidder will perform the terms of his bid if it is accepted by the commission. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.042. Award and Execution of Deed or Lease in Excess of Five Years

(a) After notice is published under Section 60.040 of this code, the commission may sell or lease all or any part of the land to the highest and best bidder for an amount which is not less than the reasonable market value in the locality at the time and place of the sale or lease.

(b) The commission shall enter an order in its minutes confirming the sale or lease. The order shall include the terms of the sale or lease and the consideration and shall provide that the commission will execute a deed or lease as soon as the successful bidder complies with the terms of his bid. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.043. Power Over Waterways

(a) The commission shall have absolute control over channels, or other waterways within the corporate limits of the district and turning basins, yacht basins, and storage basins. The commission may prevent or remove any obstructions of these facilities and fix proper fees, charges, and tolls for their use.

(b) The fees, charges, and tolls charged by the district shall be in addition to charges made, as provided by law, for any facilities used by any ship, boat, vessel, or any other character of craft used for water transportation for commercial purposes. The term commercial purposes shall be limited to any common carrier, contract carrier, or public or private carrier that shall transport or have transported persons, commodities, goods, wares, or merchandise for hire or compensation. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.044. Law Governing Commission

The commission of any district operating under this subchapter shall be governed by the provisions of Sections 63.087–63.088 and 63.090–63.094 of this code. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

[Sections 60.045 to 60.070 reserved for expansion]

SUBCHAPTER D. REGULATORY POWERS**Section 60.071. General Rule-making Authority**

The commission of a district which owns, operates, and maintains wharves, docks, piers, sheds, warehouses, and other similar terminal facilities which are not located inside the boundaries of any incorporated city, town, or village may pass, amend, and repeal any ordinance, rule, or police regulation which is not contrary to the constitution or laws of this state and which is necessary to protect the property and to promote the health, safety, and general welfare of persons using the property. (57th Legis., Ch. 486, Sec. 1 (part), as amended.)

§ 60.072. Specific Powers of Districts

To accomplish the purposes stated in Section 60.071 of this code, the commission may exercise the following powers:

- (1) control the operation of all types of vehicles using the roads maintained by the district, other than roads dedicated to public use

by formal dedication, and prescribe the speed, lighting, and other requirements of these vehicles;

(2) prohibit loitering on docks, wharves, piers, warehouses, sheds, or other properties of the district;

(3) control the operation of all types of vessels using harbors, turning basins, basins, or navigable channels of the district and prescribe the speed, lighting, and other requirements of these vessels;

(4) prohibit smoking and the use of flares, open fires, and inflammable, highly combustible, or explosive substances and materials on docks, wharves, piers, warehouses, sheds, and other properties of the district, or on those parts of the properties and at those times or during those periods as may, in the judgment of the commission, be determined to be dangerous to any of the property or inimical to the safety or general welfare of persons using the property or parts of it;

(5) prevent on any of the property all trespasses, breaches of the peace and good order, assaults and batteries, fighting, quarrels, use of abusive, profane, or insulting language, disorderly conduct, and misdemeanor theft and punish offenders;

(6) suppress and prevent any riot, affray, disturbance, or disorderly assembly on any of the property; and

(7) license and regulate or suppress and prevent hawkers and peddlers utilizing or attempting to utilize the roads and other property of the district. (57th Legis., Ch. 486, Sec. 1 (part), as amended.)

§ 60.073. Enforcement

The commission may provide by ordinance for the enforcement of the provisions of this subchapter and of any ordinance, rule, or regulation made under this subchapter. (57th Legis., Ch. 486, Sec. 2, sen. 1.)

§ 60.074. Style of Ordinances

The style of an ordinance enacted by the commission shall be: "Be it ordained by the navigation and canal commissioners of the _____" (inserting the name of the navigation district). (57th Legis., Ch. 486, Sec. 5.)

§ 60.075. Publication of Ordinance, Rule, or Regulation; Proof of Publication

(a) Each ordinance, rule, or regulation enacted by the commission under this subchapter which imposes a fine or other penalty shall be published in every issue of a newspaper of general circulation published in the district for the 10-day period immediately following its adoption. If the only newspaper published in the district is published weekly, the publication shall be made in two consecutive issues of the newspaper.

(b) Proof of publication under Subsection (a) of this section shall be made by the printer or publisher of the newspaper by affidavit filed with the secretary of the commission and shall be prima facie evidence of publication and adoption of the ordinance, rule, or regulation in all courts of this state.

(c) In lieu of the publication of the entire ordinance, rule, or regulation, the commission may provide for the publication of a descriptive caption or title, stating in summary the purpose of the ordinance, rule, or regulation and the penalty for violation.

(d) An ordinance, rule, or regulation shall take effect and be in force from and after publication under Subsection (a) of this section unless otherwise provided. (57th Legis., Ch. 486, Sec. 6.)

§ 60.076. Conflict With Law

No ordinance, rule or regulation adopted by a district under this subchapter may conflict with any law, statute, rule, or regulation of this state. (57th Legis., Ch. 486, Sec. 7.)

§ 60.077. Authority of Peace Officers

In prosecutions involving the enforcement of the provisions of this subchapter or the enforcement of any ordinance, rule, or regulation of the district, any sheriff, constable, or other duly constituted peace officer of the State of Texas or any peace officer employed or appointed by the commission may make arrests, serve criminal warrants, subpoenas, or writs, and perform any other service or duty which may be performed by any sheriff, constable, or other duly constituted peace officer of the State of Texas in enforcing other laws of this state. (57th Legis., Ch. 486, Sec. 4.)

§ 60.078. Penalties

A violation of this subchapter or of an ordinance, rule, or regulation adopted by a district under this subchapter is a misdemeanor, and the commission may provide for the punishment of the misdemeanor by a fine of not more than \$200 for each offense or violation. (57th Legis., Ch. 486, Sec. 2, sen. 2.)

§ 60.079. Jurisdiction of Violations

Any justice court in the justice precinct in which an offense under this subchapter is alleged to have been committed or in any county court at law in the county where an offense is alleged to have been committed, which county court at law has concurrent original jurisdiction with the justice court, shall have original jurisdiction of any misdemeanor or violation under this subchapter and original jurisdiction of any violation of an ordinance, rule, or regulation made under this subchapter. (57th Legis., Ch. 486, Sec. 3.)

[Sections 60.080 to 60.100 reserved for expansion]

SUBCHAPTER E. POWERS OF DISTRICTS FOR IMPROVEMENT OF PORT FACILITIES

Section 60.101. Acquisition and Maintenance of Port Facilities

Any district may acquire land and purchase, construct, enlarge, extend, repair, maintain, operate, or develop:

- (1) wharves and docks;
- (2) warehouses, grain elevators, and bunkering facilities;
- (3) belt railroads;
- (4) floating plants and facilities;
- (5) lightering and towing facilities;
- (6) everything appurtenant to these facilities; and
- (7) all other facilities or aids incidental to or useful in the operation or development of the district's ports and waterways or in aid of navigation and commerce in the ports and on the waterways. (43rd Legis., 1st C.S., Ch. 111, Sec. 1, as amended.)

§ 60.102. Utility Relocation

(a) If a district in the exercise of the powers conferred by this subchapter or in the exercise of the power of eminent domain or the police power requires the relocating, raising, lowering, rerouting, or changing in grade, or altering in the construction of any railroad, electric transmission line, telegraph or telephone line, conduit, pole, properties or facilities, or pipeline, the relocating, raising, lowering, rerouting, changing in grade, or altering of construction shall be done at the sole expense of the district.

(b) "Sole expense" means the actual cost of the relocation, raising, lowering, rerouting, change in grade, or alteration of construction in providing comparable replacement without enhancement of the facilities, after deducting the net salvage value derived from the old facility. (43rd Legis., 1st C.S., Ch. 111, Sec. 1(a), as added.)

§ 60.103. Prescribing Fees and Charges

The commission shall prescribe fees and charges to be collected for the use of the land, improvements, and facilities of the district and for the use of any land, improvements, or facilities acquired under the provisions of this subchapter. The fees and charges shall be reasonable, equitable, and sufficient to produce revenue adequate to pay the expenses mentioned in Section 60.105 of this code. (43rd Legis., 1st C.S., Ch. 111, Sec. 2, sen. 1 (part), as amended.)

§ 60.104. Power to Borrow Money

(a) The commission, for the purposes stated in Subsection (b) of this section, may borrow money from the United States or from any other source and may evidence the debt by issuing notes, warrants, certificates of indebtedness, negotiable bonds, or other forms of obligation of the district payable solely out of the revenue to be derived from land, improvements, and facilities.

(b) The commission may use the money to acquire land and waterways and all improvements on or to the land and waterways and 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 and towing facilities, everything appurtenant to them, and all other facilities or aids incidental to or useful in the operation or development of the district's ports and waterways or in the aid of navigation and commerce in the ports and waterways.

(c) Obligations issued under this subchapter shall not constitute an indebtedness or pledge of credit of the district and may not be paid in whole or in part from any funds raised or to be raised by taxation. Each obligation shall contain a recital to this effect. (43rd Legis., 1st C.S., Ch. 111, Sec. 3, as amended; Sec. 18a, as added; Sec. 4, sen. 2.)

§ 60.105. Expenses to be Paid from Current Revenues

(a) The commission shall pay from revenue raised under Section 60.103 of this code:

(1) all expenses necessary to the operation and maintenance of the improvements and facilities, including the cost of the acquisition of properties and materials necessary to maintain the improvements and facilities in good condition and operate them efficiently, the wages and salaries paid to the employees of the district, and other expenses necessary to the efficient operation of the improvements and facilities;

(2) the annual or semiannual interest on any obligations issued under this subchapter and payable out of the revenue of the improvements and facilities; and

(3) the amount required to be paid annually into the sinking fund for the payment of any obligations issued under this subchapter and payable out of the revenue of the improvements and facilities.

(b) No expenses other than those authorized by Subsection (a) of this section may be paid from the revenue of the improvements and facilities as long as the principal and interest on any obligations issued under this subchapter remain outstanding and unpaid. Any revenue received in excess of that required for the purposes stated in Subsection (a) of this

section may be used by the commission to pay the cost of improvements and replacements which are not listed and may establish a depreciation fund. (43rd Legis., 1st C.S., Ch. 111, Sec. 2, sen. 1 (part), 2, 3, 4, as amended.)

§ 60.106 Pledge of Revenue for Payment of Obligations

(a) In proceedings to authorize the issuance of obligations under this subchapter, the district may make the obligations payable from and secured by the pledge of all or part of the revenue derived from the ownership or operation of the land, improvements, facilities, or other properties of the district, exclusive of revenue derived from taxation or assessments, or payable from and secured by the pledge of only revenue which may be derived from the ownership or operation of the land, improvements, facilities, or properties acquired with the proceeds of the sale of the obligations.

(b) The obligations may be issued in more than one series and at any time at which they may be required for carrying out the purposes of the district.

(c) Any pledge of revenue may reserve the right under conditions, specified in the pledge, to issue additional obligations which will be on a parity with, senior to, or subordinate to the obligations then being issued. (43rd Legis., 1st C.S., Ch. 111, Sec. 5, as amended.)

§ 60.107. Mortgage as Additional Security

(a) As additional security for the payment of any obligations issued under this subchapter, the commission may execute in favor of the holders of the obligations an indenture, mortgaging and encumbering the improvements, facilities, and properties acquired with the proceeds of the sale of the obligations. The commission may provide in the indenture for a grant to any purchaser, at a foreclosure sale under the indenture, a franchise to operate the improvements, facilities, and properties for a term of not more than 50 years from the date of purchase, subject to all regulatory laws.

(b) The indenture may contain the terms and provisions the commission considers proper and shall be enforceable in the manner provided by the laws of this state for the enforcement of other mortgages and encumbrances.

(c) Under any sale ordered pursuant to the provisions of an indenture, the purchaser and his successors or assigns shall be vested with a permit and franchise to maintain and operate the improvements, facilities, and properties purchased at the sale and shall have the same powers and privileges as could previously have been exercised by the district in the operation of the improvements, facilities, and properties. The purchaser or his successors and assigns may remove all or part of the improvements, facilities, and properties for diversion to other purposes.

(d) Any laws of this state relating to the granting of franchises are not applicable to either the granting of any franchise or authorizing or executing of any mortgage or encumbrance entered into pursuant to the provisions of this subchapter. (43rd Legis., 1st C.S., Ch. 111, Sec. 10.)

§ 60.108. Issuance of Obligations

(a) The commission may provide that obligations issued under this subchapter are payable annually or semiannually and may issue the obligations in any denominations and may have them mature serially or at one time not more than 40 years from their date.

(b) The obligations shall be signed by the chairman and secretary of the commission, and the interest coupons attached to the obligations may

be executed with the facsimile signatures of these officers. The obligations shall be valid and sufficient for all purposes even though the officers whose signatures are on the obligations or coupons cease to be officers before delivery to the purchaser.

(c) Any obligations issued under this subchapter shall be in registered or coupon form, and if the obligations are in coupon form, they may be registered with relation to principal only or with relation to both principal and interest.

(d) The commission may sell the obligations in the manner and at the time which it considers expedient and necessary to the interests of the district.

(e) The commission may make principal and interest on the obligations payable at any place or places inside or outside the State of Texas and may make the obligations redeemable before maturity at the premium determined by the commission.

(f) Each issue of obligations authorized under this subchapter shall constitute a separate series which shall be appropriately designated. These obligations constitute negotiable instruments within the meaning of the negotiable instruments law. (43rd Legis., 1st C.S., Ch. 111, Sec. 4, sen. 1, 3, 4, 5, 6, 7, 8.)

§ 60.109. Sinking Fund

(a) A resolution or an order authorizing the issuance of obligations under this subchapter shall provide for the creation of a sinking fund which shall include sums fully sufficient to pay principal of and interest on the obligations. Money deposited in the sinking fund shall be taken from revenue pledged for the payment of the obligations and shall be deposited in the fund as the revenue is collected.

(b) The money in the sinking fund shall be applied solely to the payment of interest on the obligations for the payment of which the fund is created and for the retirement of the obligations at or before maturity in the manner provided by this subchapter.

(c) The commission, at the time obligations are authorized under this subchapter, may provide that all money in the sinking fund which is in excess of the amount required for the payment of the principal of and interest on the outstanding obligations, for a period of time it may determine, shall be spent once each year pursuant to the commission's orders for the purchase of obligations, if any can be purchased at a price the commission finds reasonable, for the account of which the sinking fund has been accumulated.

(d) If the obligations contain an option permitting retirement before maturity, the commission may provide that the excess sums shall be paid out as authorized by Subsection (b) of this section for the purchase of the obligations, but if the commission is unable to purchase sufficient obligations of the issue to absorb all the surplus, it shall call a sufficient amount of the obligations for redemption to absorb insofar as practicable the entire surplus remaining in the sinking fund.

(e) The commission may provide that any excess in the sinking fund which cannot be applied to the purchase or redemption of obligations shall remain in the sinking fund for payment of principal and interest and for subsequent call for purchase or redemption. (43rd Legis., 1st C.S., Ch. 111, Sec. 6.)

§ 60.110. Revenue Set Aside for Sinking Fund

(a) A resolution or an order authorizing the issuance of obligations under this subchapter shall provide that the revenue from which the obligations are to be paid shall, from month to month as it accrues and is re-

ceived, be placed in a sinking fund and disbursed in the manner provided in Section 60.109 of this code.

(b) In determining the amount of revenue to be set aside, the commission shall provide that the amount to be set aside and paid into the fund in any year shall not be less than a fixed sum which shall be at least sufficient to provide for the payment of the principal of and interest on all obligations which mature and become payable each year and shall include a surplus or margin of 10 percent in excess of that amount. (43rd Legis., 1st C.S., Ch. 111, Sec. 8.)

§ 60.111. Deposit of Proceeds of Obligations; Payment

(a) The proceeds of the sale of any obligations issued under this subchapter may be deposited in a bank or banks and paid out on terms and conditions agreed on by the purchaser at the sale and the commission.

(b) The laws of this state relating to the deposit of district funds in the depository of the district shall not apply to the deposit of the proceeds of a sale governed by Subsection (a) of this section.

(c) Any part of the proceeds of the sale of obligations issued under this subchapter which remains unspent after the project for which the obligations were authorized has been completed may be paid into the sinking fund for the payment of the obligations and may be used only for the payment of principal of the obligations or for the purpose of purchasing outstanding obligations in the manner provided by this subchapter. (43rd Legis., 1st C.S., Ch. 111, Sec. 11.)

§ 60.112. Insuring Improvements to Protect Holders of Obligations

(a) The commission may enter into agreements with purchasers of any obligations issued under this subchapter to insure improvements and facilities, the revenue of which is pledged to the payment of the obligations.

(b) The commission may obtain from insurers of good standing:

(1) insurance against loss or damage by fire, water, or flood;

(2) insurance against loss or damage from any hazards customarily insured against by private companies operating similar properties; and

(3) insurance covering the use and occupancy of the property as is customarily carried by private companies.

(c) The cost of the insurance shall be budgeted as maintenance and operation expense and shall be carried for the benefit of the holders of the obligations. (43rd Legis., 1st C.S., Ch. 111, Sec. 12.)

§ 60.113. Compelling Performance of Duties

A holder of obligations issued under this subchapter or coupons originally attached to the obligations may by any legal proceeding enforce and compel performance of all duties required by this subchapter to be performed by the commission. The duties which can be the basis of an action under this section shall include:

(1) the establishment and collection of reasonable and sufficient fees or charges for the use of improvements and facilities of the district;

(2) the segregation of the income and revenue from improvements and facilities; and

(3) the application of income and revenue pursuant to the provisions of this subchapter. (43rd Legis., 1st C.S., Ch. 111, Sec. 9.)

§ 60.114. Obligations Exempt from Taxation

Any obligations issued under this subchapter shall be exempt from taxation by the State of Texas, any municipal corporation, any county, or any other political subdivision or taxing district of the state. (43rd Legis., 1st C.S., Ch. 111, Sec. 14.)

§ 60.115. Refunding Obligations

(a) A district issuing obligations under the provisions of this subchapter may authorize issuance of its refunding obligations on terms its commission considers advisable for the purpose of providing for the retirement of outstanding obligations which are either due or to become due.

(b) The refunding obligations either may be exchanged for the same par amounts of outstanding obligations or may be sold and the proceeds of the sale exchanged for the same par amounts of outstanding obligations.

(c) Refunding obligations authorized and issued under Subsection (a) of this section are subject to the provisions of this subchapter relating to the issuance of other obligations and shall be secured in all respects to the same extent and shall be payable from the same revenue as the obligations which they refund. (43rd Legis., 1st C.S., Ch. 111, Sec. 15.)

§ 60.116. Approval and Registration of Bonds

(a) Bonds issued under this subchapter shall be submitted to the Attorney General of Texas for his approval in the same manner and with the same effect as provided for the approval of tax bonds issued by counties of the state.

(b) Bonds issued under this subchapter shall be registered by the Comptroller of Public Accounts of Texas as required for county tax bonds. (43rd Legis., 1st C.S., Ch. 111, Sec. 18b, as added.)

§ 60.117. Bonds as Investments

Bonds authorized and issued under this subchapter are legal and authorized investments for life insurance companies authorized to do business in Texas (43rd Legis., 1st C.S., Ch. 111, Sec. 18c, as added.)

§ 60.118. Board of Trustees of Grain Elevator

(a) A district which constructs, purchases, or otherwise acquires or plans to construct, purchase, or otherwise acquire any facility authorized in Section 60.101 of this code to be paid for in whole or in part by the issuance and sale of obligations payable from and secured by a pledge of revenue authorized in this subchapter may vest management and control of the facility during the time the obligations or refunding obligations are secured in whole or in part by the pledge of revenue, in a board of trustees named in the resolution or indenture.

(b) The board of trustees shall consist of not less than five nor more than nine members, and shall be entitled to receive the compensation fixed by the resolution or indenture, which shall not be more than one percent of the gross receipts of the facility in any one year.

(c) The commission shall specify in the resolution or indenture:

(1) the terms of office of the members of the board of trustees;

(2) the powers and duties of the board, including the power to fix fees and charges for the use of the facility;

(3) the manner of exercising the powers and duties;

(4) the manner of selecting the successors of the board of trustees;

and

(5) all matters relating to board members' duties and the organizing of the board.

(d) The board of trustees may adopt bylaws regulating the procedure of the board and fixing the duties of its officers, but the bylaws may not contain any provision in conflict with the covenants and provisions contained in the resolution authorizing the bonds or in the indenture.

(e) In all matters relating to powers, duties, obligations, and procedure of the board of trustees which are not covered in the bylaws and the

resolution or indenture, the laws and rules governing the commission shall control, where applicable.

(f) When the board is created by the resolution or indenture, it shall have all of the power and authority for the management and operation of any facility which could be exercised by the commission.

(g) By the terms of the resolution or indenture, the commission may make provision for later supplementation of the resolution or indenture to vest the management and control of the facility in a board of trustees having the powers, rights, and duties conferred or imposed by this section. (43rd Legis., 1st C.S., Ch. 111, Sec. 7a, as added.)

Amended by Acts 1971, 62nd Leg., p. 1159, ch. 264, § 1, eff. May 19, 1971.

Acts 1971, 62nd Leg., p. 1159, ch. 264, provides in sections 2 and 3:

"Sec. 2. The provisions of any resolution or indenture adopted or executed by any district before the effective date of this act providing for the creation of the board of trustees at the time this Act becomes effective are hereby validated, confirmed, and ratified.

"Sec. 3. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby."

§ 60.119. Covenants for Management and Operation of Improvements

(a) A resolution or order authorizing the issuance of obligations under this subchapter may include covenants with the holders of the obligations relating to:

- (1) the management and operation of the improvements and facilities;
- (2) the collection of fees and charges for the use of the improvements and facilities;
- (3) the disposition of the fees and charges;
- (4) the issuance of future obligations and creation of future liens and encumbrances against the improvements, facilities, and the revenue from them; and
- (5) other pertinent matters, as may be deemed necessary to insure the marketability of the obligations.

(b) The covenants shall not be inconsistent with the provisions of this subchapter. (43rd Legis., 1st C.S., Ch. 111, Sec. 7.)

§ 60.120. Contracts, Leases, and Agreements Authorized

(a) A district acting under the provisions of this subchapter may enter into any contract, lease, or agreement necessary or convenient to carry out any of the powers granted in this subchapter. The contract, lease, or agreement may be entered into with any person and any government or governmental agency including the United States and the State of Texas.

(b) Any contract, lease, or agreement entered into under Subsection (a) of this section shall be approved by resolution of the commission and shall be executed by the chairman and attested by the secretary of the commission. (43rd Legis., 1st C.S., Ch. 111, Sec. 13.)

§ 60.121. Conversion of District

(a) If the commission of any district organized under Article III, Section 52, of the Texas Constitution, finds it expedient to convert the district into a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, in order to utilize the provisions of this subchapter, the conversion may be accomplished as provided in Subchapter J of this chapter.

(b) All proceedings and hearings held in connection with a conversion shall be adopted and conducted by the commission of the district instead of by the navigation board of the district. (43rd Legis., 1st C.S., Ch. 111, Sec. 16.)

§ 60.122. Improvements not Payable From Taxes

(a) No district, in the operation, maintenance, or repair of any improvements or facilities acquired, purchased, or constructed under the provisions of this subchapter, shall incur any indebtedness or assume any liability or obligation payable out of taxes.

(b) Liabilities and obligations arising from these activities are payable solely out of the revenue from the improvements and facilities which may be applicable as authorized in this subchapter. (43rd Legis., 1st C.S., Ch. 111, Sec. 18.)

§ 60.123. Pilot and Pilotage Laws Unaffected

No provision of this subchapter may be construed to amend, repeal, or affect the laws relating to pilots and pilotage or their appointment and remuneration. (43rd Legis., 1st C.S., Ch. 111, Sec. 19.)

[Sections 60.124 to 60.150 reserved for expansion]

SUBCHAPTER F. CONTRACTS WITH THE UNITED STATES**Section 60.151. Purpose**

It is the purpose and intent of this subchapter to confer on districts jointly or mutually interested in a navigation project which has been approved by the United States, either by Act of Congress or act of the secretary of defense, the fullest possible power of contract with regard to the project of common interest. (42nd Legis., 1st C.S., Ch. 12, Sec. 3.)

§ 60.152. Authority to Enter into Contract

(a) Two or more districts, all or parts of which are located in one county and which are interested in or may, in the judgment of the commission, be benefited by a navigation project approved by Act of Congress or by the secretary of defense, may enter into contracts with the United States and with each other to consummate the projects of common interest.

(b) The contract may provide for:

(1) the assumption of joint or joint and several liability for construction, completion, and consummation of the project;

(2) the acquisition of property in connection with the project;

(3) the lending and contribution of funds of the district to the United States or to any other district in support or in aid of the project; and

(4) the assumption of responsibility for valid obligations, incurred in furtherance of the common project, of the United States or of any district. (42nd Legis., 1st C.S., Ch. 12, Sec. 1.)

§ 60.153. Execution of Contracts

A contract entered into by a district under this subchapter shall be approved by resolution of the commission, executed by the presiding officer of the commission, and duly attested by the corporate seal of the district. (42nd Legis., 1st C.S., Ch. 12, Sec. 2.)

[Sections 60.154 to 60.170 reserved for expansion]

**SUBCHAPTER G. POWERS OF DISTRICT TO PROVIDE
IMPROVEMENTS WITHOUT TAXATION****Section 60.171. Authority to Borrow Money and Encumber Property and Franchise**

(a) A district organized under the provisions of the constitution or laws of this state and created for the development of deep water navigation may borrow money and may mortgage and encumber part or all of its properties and facilities, the franchise, revenue, and income from the operation of its properties and facilities and everything pertaining to its properties and facilities to secure the payment of funds to purchase, build, improve, enlarge, extend, or repair any of its wharves, docks, warehouses, levees, bulkheads, canals, waterways, or other aids to navigation.

(b) As additional security, the encumbrance may pledge the net income and revenue from the operation of properties and facilities of the district and may provide for a grant, to a purchaser under sale or foreclosure, of a franchise to operate, subject to all regulatory laws, the encumbered property and facilities for a term of not more than 20 years from the date of purchase. (47th Legis., Ch. 38, Sec. 1.)

§ 60.172. Notice of Hearing on Indebtedness

(a) When, for the purposes authorized by Section 60.171 of this code, a commission proposes to borrow money and mortgage and encumber any part or all of its properties, facilities, franchises, revenue, and income from the operation of its properties and facilities, the commission shall give notice of intention to authorize and issue the evidence of the indebtedness.

(b) The commission shall fix a time and place at which a public hearing concerning the proposed indebtedness shall be held. The date of the hearing shall be not less than 15 days nor more than 30 days from the date of the resolution of the commission giving the notice.

(c) Notice published by the commission under this section shall:

- (1) include a statement of the amount and purpose of the proposed indebtedness;
- (2) inform all persons of the time and place of hearing; and
- (3) inform all persons of their right to appear at the hearing and contend for or protest the creation of the indebtedness.

(d) The secretary of the commission shall post copies of the notice for 10 days before the day of hearing in three public places in the district and at the door of each county courthouse located in the district.

(e) The notice also shall be published one time not less than five days before the day of the hearing in a newspaper of general circulation in the district. If a newspaper is not published in the district, the notice shall be published in some newspaper published in any county situated in whole or in part within the district.

(f) The duties imposed on the secretary of the commission by this section may be performed by any commission member or the assistant secretary of the commission. (47th Legis., Ch. 38, Sec. 8.)

§ 60.173. Hearing on Indebtedness

(a) At the time and place set for the hearing or on a subsequent date, the commission shall hear and determine all matters concerning the proposed indebtedness, and the hearing may be adjourned from day to day and from time to time as the commission considers necessary.

(b) At the hearing, any person interested may appear before the commission in person or by attorney and contend for or protest the creation of the proposed indebtedness.

(c) The commission may adopt a resolution or order providing for the assumption of the proposed indebtedness and the issuance of the evidence of the indebtedness if at the hearing it is determined by the commission that the proposed improvements are necessary, feasible, practicable, and needed and will benefit the property in the district.

(d) The commission may, in respect to the issuance, sale, and delivery of securities evidencing the indebtedness, adopt all necessary resolutions, orders, certificates, and trust indentures. (47th Legis., Ch. 38, Sec. 9.)

§ 60.174. Issuance of Obligations

(a) The district may issue evidences of indebtedness secured by encumbrance which mature not more than 20 years after the date of issuance.

(b) The encumbrance and evidences of indebtedness shall include the 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." (47th Legis., Ch. 38, Sec. 3.)

§ 60.175. Execution and Sale of Obligations

(a) Each note, warrant, or other security evidencing any indebtedness created under the provisions of this subchapter shall be signed by the chairman of the commission, countersigned by the secretary of the commission, and have the seal of the district impressed on it.

(b) Each note, warrant, or other security may be registered as to principal by the trustee named and designated by the commission in the trust indenture executed by the commission to secure payment of the obligation.

(c) The evidences of indebtedness may be sold by the commission on the best terms and for the best price possible. (47th Legis., Ch. 38, Sec. 10, 12.)

§ 60.176. Obligations as Charge on Encumbered Property and Facilities

(a) No obligation issued under Section 60.174 of this code shall be a debt of the district issuing the obligation but shall be solely a charge on the encumbered property and facilities.

(b) Revenue and income from the encumbered property and facilities of the district shall not be considered in determining the power of the district to issue any bonds for any purpose authorized by law. (47th Legis., Ch. 38, Sec. 2.)

§ 60.177. Lien on Revenue; Foreclosure of Encumbrance

(a) If the revenue and income from the properties and facilities of the district are encumbered under the provisions of this subchapter, the expense of operation and maintenance necessary to render efficient service of the properties and facilities shall be a first lien and charge against the revenue and income. The first lien shall be prior to and superior to the lien of the encumbrance.

(b) No encumbrance shall be foreclosed because of default of the district until the default has existed for a period of 90 days and notice of the default has been served on the commission. (47th Legis., Ch. 38, Sec. 4.)

§ 60.178. Trustee to Enforce Foreclosure; Franchise Under Foreclosure

(a) The encumbrance may provide for a trustee to enforce foreclosure.

(b) In the event of foreclosure of an encumbrance created under this subchapter, the encumbrance may provide for the grant of a franchise to the purchaser under foreclosure to operate the properties encumbered for

a period not to exceed 20 years from the date of default. The district shall have the option at any five-year period for 20 years after default to repurchase the properties on reasonable terms and at reasonable prices to be set forth in the encumbrance.

(c) The provisions of Sections 61.164–61.168 of this code, relating to the grant of franchises by districts, shall not apply to the grant of any franchises under authority of this section. (47th Legis., Ch. 38, Sec. 5, 11.)

§ 60.179. Borrowing for Current Expenses

The district may borrow funds and issue warrants to pay current expenses. The warrants issued shall be payable not later than the close of any calendar year for which loans are made and may not exceed in total the anticipated revenue of the district. (47th Legis., Ch. 38, Sec. 6.)

§ 60.180. Management and Control by Commission

The management and control of any property and facilities encumbered under the provisions of this subchapter shall, during the time of the encumbrance, be exercised by the commission. (47th Legis., Ch. 38, Sec. 7.)

§ 60.181. Proceedings to Borrow Money

(a) The commission shall supervise all proceedings to be taken and acts to be performed under this subchapter concerning the borrowing of money, the mortgaging and encumbering of properties and facilities, the franchise, revenue, and income from the operation of properties and facilities, and the issuance of evidences of indebtedness.

(b) The commissioners court of any county included in whole or in part inside the boundaries of a district and the navigation board established for a district shall not be required to take any action in connection with this subchapter, approve or ratify any proceedings taken by the commission, or approve or ratify any act performed by the commission. (47th Legis., Ch. 38, Sec. 13.)

[Sections 60.182 to 60.200 reserved for expansion]

SUBCHAPTER H. PROMOTION AND DEVELOPMENT FUND IN CERTAIN DISTRICTS

Section 60.201. Purpose

Districts in this state which include cities of 100,000 or more inhabitants and which operate ports or waterways and harbor and terminal facilities are in keen competition with other ports, waterways, harbors, and terminals outside the state and with privately owned port and terminal facilities inside the state. Well-situated and well-equipped ports and waterways in other nearby states and owners of substantial port and terminal facilities located inside and outside the state are advertising, promoting and developing their competing ports, waterways, harbors, and terminals through expenditure of large amounts of money without any audit or restriction on expenditure of the money. This activity or expenditure is thwarting and impeding the use, progress, and development of the ports, waterways, harbors, and terminals of this state. Continuation of this hardship and injustice can best be met and coped with by more liberal use of some relatively small fund set aside from the gross income from operations of the ports of this state to be used in the manner provided in this subchapter. (51st Legis., Ch. 280, Sec. 1, as amended.)

§ 60.202. Creation of Fund

A district organized under general or special law and containing a city of 100,000 or more population, according to the last preceding federal

census, may set aside out of current income from its operations a promotion and development fund of not more than five percent of its gross income from operations in each calendar year. (51st Legis., Ch. 280, Sec. 2, sen. 1, as amended.)

§ 60.203. Expenditure of Fund

Money in the promotion and development fund shall be spent by the commission or as the commission may direct to pay any expenses connected with:

- (1) any activity or matter incidental to the advertising, development, or promotion of the district or its ports, waterways, harbors, or terminals;
- (2) furthering the general welfare of the district and its facilities; or
- (3) the betterment of the district's relations with steamship and rail lines, shippers, consignees of freight, governmental officials, or others interested or sought to be interested in the ports, waterways, harbors, or terminals. (51st Legis., Ch. 280, Sec. 2, sen. 2, as amended.)

§ 60.204. Management and Control of Promotion and Development Fund

(a) The money in the promotion and development fund shall be kept separate from all other funds and accounts of the district, and no money collected from assessing or levying taxes may be mingled with the fund.

(b) The promotion and development fund shall be under the exclusive control of the commission, and the commission shall have full responsibility for auditing, approving, and safeguarding the expenditure of money from the fund.

(c) The county auditor shall exercise his usual supervision and control to assure that the commission sets aside no more than five percent of its gross income from operations in each calendar year in the promotion and development fund. The county auditor shall not audit disbursements from the fund but shall be entitled to a monthly statement showing the:

- (1) date of each disbursement from the fund;
- (2) amount disbursed;
- (3) person or concern to whom disbursed; and
- (4) general purpose of each disbursement. (51st Legis., Ch. 280, Sec. 3, as amended.)

§ 60.205. Other Expenses not Affected

Since this subchapter authorizes disbursements from the promotion and development fund for unusual purposes and occasions not covered by other law, the setting aside of the fund and disbursements from the fund shall not affect payment of other expenses customarily approved, audited, and paid out of the regular funds of the district. (51st Legis., Ch. 280, Sec. 4, as amended.)

[Sections 60.206 to 60.220 reserved for expansion]

SUBCHAPTER I. REVENUE BONDS

Section 60.221. Modification of Revenue Bond Resolution

If a district adopts a resolution for the issuance of revenue bonds, provision may be made in the resolution for its modification after the issuance of the bonds in the manner and with the consent of the holders of a fixed percentage of the bonds if provided in the resolution before the issuance of the bonds. (53rd Legis., Ch. 226, Sec. 1.)

[Sections 60.222 to 60.240 reserved for expansion]

SUBCHAPTER J. CONVERSION OF DISTRICTS**Section 60.241. Authority to Convert**

Any district created under the provisions of Article III, Section 52, of the Texas Constitution may be converted into a district operating under Article XVI, Section 59, of the Texas Constitution, in the manner provided in this subchapter. (41st Legis., 1st C.S., Ch. 103, Sec. 1, sen. 1 (part).)

§ 60.242. Resolution

(a) The navigation board shall adopt a resolution declaring that in its judgment conversion to a district operating under Article XVI, Section 59, of the Texas Constitution will be in the best interest of the district and will be a benefit to the land and property located in the district.

(b) The resolution shall call a hearing and shall be entered in the minutes of the board. (41st Legis., 1st C.S., Ch. 103, Sec. 1, sen. 1 (part).)

§ 60.243. Notice of Resolution

(a) Notice of the resolution shall be given by publishing notice once a week for two consecutive weeks in a newspaper with general circulation in the county in which the district is located. The first publication shall appear not less than 14 full days before the time set for the hearing.

(b) The notice shall:

(1) state the time and place of the hearing;

(2) set out the entire resolution; and

(3) notify interested persons to appear and offer testimony for or against the proposal. (41st Legis., 1st C.S., Ch. 103, Sec. 1, sen. 2, 3,

4.)

§ 60.244. Findings of Navigation Board

(a) After the hearing, if the navigation board finds that conversion to a district operating under Article XVI, Section 59, of the Texas Constitution, would be in the best interest of the district and would be a benefit to the land and property located in the district, it shall enter an order making these findings and the district shall become a district operating under Article XVI, Section 59, of the Texas Constitution.

(b) If the navigation board finds that conversion to a district operating under Article XVI, Section 59, of the Texas Constitution, would not be in the best interest of the district and would not be a benefit to the land and property located in the district, it shall enter an order making these findings.

(c) The findings of the navigation board are final and are not subject to appeal or review. (41st Legis., 1st C.S., Ch. 103, Sec. 1, sen. 5, 6, 7.)

§ 60.245. Status of Converted District

A district which is converted under the provisions of this subchapter shall be constituted a district operating under Article XVI, Section 59, of the Texas Constitution and shall be governed by the provisions of Chapter 62 of this code as if it had originally been organized under Article XVI, Section 59, of the Texas Constitution, except the commissioners of a converted district shall be appointed in the manner that initial commissioners are appointed under Sections 62.061 and 62.062 of this code. (41st Legis., 1st C.S., Ch. 103, Sec. 1, sen. 8.)

§ 60.246. Powers of Converted District

(a) Nothing in this subchapter shall be construed to deprive a converted district of any powers conferred on it by the law under which it was organized.

(b) A converted district shall have the additional powers conferred on districts under Sections 61.151, 61.161–61.168, 61.170, and 61.172–61.175 of this code, and the commissioners of a converted district shall constitute a pilot board under the provisions of Articles 8248–8257, Revised Civil Statutes of Texas, 1925.

(c) If there is a conflict between the powers conferred by Section 60.245 of this code and the powers preserved by Subsection (a) of this section, the powers conferred by Section 60.245 shall control. (41st Legis., 1st C.S., Ch. 103, Sec. 2.)

[Sections 60.247 to 60.270 reserved for expansion]

SUBCHAPTER K. DEPOSITORY

Section 60.271. Selection of Depository

(a) The commission shall select a depository for the district under the law providing for the selection of a county depository.

(b) The commission in selecting the depository shall act in the same capacity and perform the same duties as the county judge and the commissioners court in selecting a county depository. (R.S. Art. 8244, sen. 1, 2, as amended.)

§ 60.272. Depository Bond

The depository shall have all the powers and duties in the execution of a depository bond and in pledging of collateral in lieu of or in addition to a personal surety or surety company bond as provided by law for a county depository. (R.S. Art. 8244, sen. 3, as amended.)

§ 60.273. Treasurer's Bond

After the depository executes the bond and it is approved by the commission, the county treasurer shall be required to execute only such a bond as required by the commission. (R.S. Art. 8244, sen. 4, as amended.)

[Sections 60.274 to 60.300 reserved for expansion]

SUBCHAPTER L. REFUNDING BONDS

§ 60.301. Authority to Issue Refunding Bonds

The governing body of any district may refund the bonded indebtedness of the district without a vote of the electors of the district in the manner provided by law for counties, cities, and towns and may refund the bonded indebtedness owned by the State Board of Education in the manner provided for independent school districts incorporated for free school purposes only. (41st Legis., 1st C.S., Ch. 103, Sec. 6.)

**CHAPTER 61. ARTICLE III, SECTION 52,
NAVIGATION DISTRICTS****SUBCHAPTER A. GENERAL PROVISIONS****Section**

61.001. Definitions.

[Sections 61.002 to 61.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

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61.022. Area Included in District.

61.023. District May Include Road District.

61.024. Petition to Create Single-county District.

61.025. Petition to Create District in Two Counties.

61.026. Deposit.

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61.029. Hearing by Board.

61.030. Conduct of Hearing.

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61.032. Providing Funds for Proposed Improvements.

61.033. Election Order.

61.034. Elections.

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61.036. Declaration of Result.

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SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

61.071. Appointment of Commissioners.

61.072. Organization: Quorum.

61.073. Qualifications.

61.074. Term of Office, Removal, and Succession.

61.075. Commissioner's Oath.

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61.080. District Treasurer's Compensation.

61.081. Duties Imposed without Compensation.

61.082. Court Actions.

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SUBCHAPTER D. POWERS AND DUTIES

61.111. Purposes of District.

61.112. Employees and Counsel.

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61.115. Acquisition of Property.

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61.117. Limitations on Sales of State Land and Flats.

Section

- 61.118. Construction Contracts.
- 61.119. Interest in Contract of Navigation District.
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SUBCHAPTER E. PORT FACILITIES

- 61.151. Authority to Operate and Develop Port Facilities.
- 61.152. Petition.
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- 61.158. Appointment of Commissioners.
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- 61.160. Qualifications; Compensation; Authority.
- 61.161. Eminent Domain.
- 61.162. Lease and Rental of Facilities.
- 61.163. Unimproved Land.
- 61.164. Franchises.
- 61.165. Franchise Election.
- 61.166. Ballots.
- 61.167. Election Result.
- 61.168. Petition Protesting Franchise.
- 61.169. Contracts.
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- 61.171. Bonds.
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- 61.173. Election on the Purchase of Facilities.
- 61.174. Employees; County Auditor, Duties and Compensation.
- 61.175. Powers.
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[Sections 61.177 to 61.210 reserved for expansion]

SUBCHAPTER F. GENERAL FISCAL PROVISIONS

- 61.211. Maintenance Fund.
- 61.212. District Depository.
- 61.213. District Treasurer's Duties.

[Sections 61.214 to 61.230 reserved for expansion]

SUBCHAPTER G. BOND AND TAX PROVISIONS

- 61.231. Issuance of Bonds.
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- 61.237. Collection of Taxes.
- 61.238. Additional Bond Issue.
- 61.239. Sinking Fund Investments.

SUBCHAPTER A. GENERAL PROVISIONS**Section 61.001. Definitions**

In this chapter:

(1) "District" means a navigation district created under Article III, Section 52, of the Texas Constitution.

(2) "Commission" means the navigation and canal commission of a district.

(3) "Board" means the navigation board.

(4) "Commissioners court" means the commissioners court of the county in which the district is located or the commissioners court of the county of jurisdiction.

(5) "Commissioner" means a member of the navigation and canal commission. (New.)

[Sections 61.002 to 61.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT**Section 61.021. Creation**

A navigation district may be created as provided in this chapter to operate under Article III, Section 52 of the Texas Constitution. (New.)

§ 61.022. Area Included in District

A district may include all or part of a village, town, or municipal corporation, but may not include more than all or parts of two counties. (R.S. Art. 8198, sen. 1.)

§ 61.023. District May Include Road District

On petition signed by a majority of the property taxpayers who reside in the special road district, a district which includes all or parts of two counties may include any special road district which has voted bonds to construct public roads. If the entire county which includes the road district is included in the district, this section does not apply. (R.S. Art. 8199.)

§ 61.024. Petition to Create Single-county District

(a) To create a district located wholly in one county, a petition, signed by 25 of the resident property taxpayers, or if there are fewer than 75 resident property taxpayers in the proposed district, then by one-third of them, shall be presented to the commissioners court of the county.

(b) The petition shall include:

(1) a request for the establishment of a navigation district;

(2) a description of the boundaries of the proposed district, accompanied by a map;

(3) a statement of the general nature of the improvements proposed;

(4) an estimate of the probable cost;

(5) a request for the issuance of bonds and the levy of a tax to pay for the bonds; and

(6) the designation of a name for the district which shall include the name of the county.

(c) An affidavit stating the qualifications of the petitioners shall accompany the petition. (R.S. Art. 8200, sen. 1, 2.)

§ 61.025. Petition to Create District in Two Counties

(a) If the proposed district is located in two counties, the petition shall be presented to the commissioners court of the county which in-

cludes the greater part of the district, and this county shall be the county of jurisdiction with relation to all matters concerning the district.

(b) The petition shall be signed by 25 resident property taxpayers in each county in the district or if there are fewer than 75 resident property taxpayers in either of the counties, then by one-third of the resident property taxpayers in that county.

(c) The name of the district shall include the name of the county which has jurisdiction. (R.S. Art. 8200, sen. 3.)

§ 61.026. Deposit

(a) The petition shall be accompanied by \$500 in cash, which shall be deposited with the clerk of the commissioners court.

(b) The money shall be held by the clerk until after the result of the election for the creation of the district has been declared and entered of record by the commissioners court.

(c) If the result of the election is in favor of the establishment of the district, the deposit shall be returned to the petitioners or their agent or attorney.

(d) If the result of the election is against the establishment of the district, the clerk shall pay out of the \$500, with vouchers signed by the county judge, all costs and expenses connected with the proposed district, including the election. Any balance shall be returned to the petitioners or their agents or attorney. (R.S. Art. 8201.)

§ 61.027. Hearing

(a) On presentation of the petition, the commissioners court shall order a hearing to be held at a regular or special term of the commissioners court.

(b) The hearing shall be held not less than 30 days nor more than 60 days from the date the petition is presented. (R.S. Art. 8202, sen. 1 (part).)

§ 61.028. Notice of Hearing

(a) The commissioners court shall order the clerk to give notice of the date and place of the hearing by posting a copy of the petition and the order of the commissioners court at the courthouse door and at four other public places within the boundaries of the proposed district.

(b) The notices shall be posted not less than 20 days immediately preceding the time set for the hearing.

(c) If the district is composed of more than one county, the notices shall be posted in each county.

(d) The clerk is entitled to receive \$1 for each notice he posts and five cents a mile for each mile traveled to post the notices. (R.S. Art. 8202, sen. 1 (part), 2, 3.)

§ 61.029. Hearing by Board

(a) If the proposed district includes all or part of a city acting under special charter granted by the legislature, the hearing shall be held at the regular meeting place of the commissioners court before a board.

(b) The board shall include the county judge and the members of the commissioners court and the mayor and the aldermen or commissioners of the city or cities.

(c) The board shall pass on the petition with each individual member having one vote.

(d) A majority in number of the persons composing the board shall constitute a quorum, and the action of the quorum shall control.

(e) The hearing shall be held and notice shall be given as provided in Sections 61.027-61.028 of this code.

(f) The clerk shall record the proceedings of the board in the book kept for that purpose, and this record shall be available for public inspection. (R.S. Art. 8203.)

§ 61.030. Conduct of Hearing

(a) The commissioners court or the board has exclusive jurisdiction to hear and determine all contests and objections to the creation of the proposed district, all matters relating to the creation of the proposed district, and all subsequent proceedings of the proposed district after it is organized.

(b) The commissioners court or the board may adjourn the hearing from day to day, and all judgments or decisions rendered by it shall be final unless otherwise provided in this chapter.

(c) Any person who might be affected by creation of the district may appear at the hearing and support or oppose creation of the proposed district and may offer testimony relating to:

- (1) the necessity and feasibility of the proposed district;
- (2) the benefits to accrue from formation of the proposed district;
- (3) the boundaries of the proposed district; or
- (4) any other matter concerning the proposed district. (R.S. Art.

8204.)

§ 61.031. Findings

(a) If it appears at the hearing that the proposed improvements are feasible and practicable and would be a public benefit and utility, the commissioners court or the board shall make these findings and approve the boundaries stated in the petition or make changes in the boundaries.

(b) Changes may not be made in the proposed boundaries until notice is given and a hearing held in the manner provided in Sections 61.027-61.030 of this code.

(c) If the commissioners court or board is unable to make the findings under Subsection (a) of this section, it shall dismiss the petition at the cost of the petitioners. Dismissal of the petition shall not prevent presentation of other petitions at a later date.

(d) The commissioners court or the board shall enter all findings in its records. (R.S. Art. 8205, sen. 1, 2, 3 (part).)

§ 61.032. Providing Funds for Proposed Improvements

(a) If the commissioners court or the board approves the boundaries in the petition or as changed and decides to grant the petition, it shall determine the amount of money necessary for the improvements and all expenses connected with the improvements and whether to issue bonds for the full amount or, in the first instance, for a less amount.

(b) The commissioners court or the board shall specify the amount, term, and rate of interest of bonds to be issued. (R.S. Art. 8205, sen. 3 (part).)

§ 61.033. Election Order

(a) If the commissioners court or the board finds in favor of the establishment of the district and the issuance of bonds and levy of a tax, the commissioners court shall order an election to vote on the proposition.

(b) The election order shall specify the amount of the bonds to be issued, their maturity dates, and the rate of interest. (R.S. Art. 8206.)

§ 61.034. Elections

(a) When an election is held under this chapter, notice shall be posted for 30 days before the election in the manner provided for posting notice. The notice shall include:

- (1) the time and place of the election;
- (2) the proposition;
- (3) the purpose of the election; and
- (4) a copy of the election order. (R.S. Art. 8259.)

(b) Unless otherwise provided, a two-thirds vote is necessary to carry a proposition submitted at an election. (R.S. Art. 8260, sen. 1.)

(c) The commissioners court shall create and define, by order, the voting precincts in the district and shall name convenient polling places in the precincts. It shall appoint necessary election officials and shall hold elections at the earliest legal time. (R.S. Art. 8260, sen. 2, 3.)

(d) After canvassing the returns of an election, if the commissioners court finds that the proposition has carried, it shall declare the result and enter it in the minutes as provided in this chapter. (R.S. Art. 8262.)

§ 61.035. Ballots

The ballots for the election shall be printed to provide for voting for or against the proposition: "The creation of a navigation district and the issuance of bonds and the levy of a tax to pay for the bonds." (R.S. Art. 8207.)

§ 61.036. Declaration of Result

If the proposition carries at the election, the commissioners court shall enter the following declaration in its minutes:

"Commissioners Court of _____ County, Texas, _____ term A.D. _____: In the matter of the petition of _____ and _____ others requesting the establishment of a navigation district and the issuance of bonds and the levy of taxes in the petition described and designated by the name of _____ Navigation District. Be it known that at an election called for that purpose in the district, held on the _____ day of _____ A.D. _____, a two-thirds majority of the electors voting on the proposition voted in favor of the creation of the navigation district, and the issuance of bonds and the levy of a tax. Now, therefore, it is considered and ordered by the court that the navigation district be and the same is hereby established by the name of _____ Navigation District, and that the bonds of the district in the amount of \$_____ be issued, and a tax of _____ cents on the \$100 valuation or so much thereof as may be necessary to be levied on all property inside the navigation district sufficient in amount to pay the interest on the bonds and provide a sinking fund to redeem them at maturity, and that if the tax becomes insufficient for these purposes, it shall be increased until it is sufficient. The metes and bounds of the district shall be as follows: (Description of metes and bounds.)" (R.S. Art. 8208.)

[Sections 61.037 to 61.070 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**Section 61.071. Appointment of Commissioners**

After a district is created, the commissioners court or the board, by majority vote, shall biennially appoint three commissioners to the commission. (R.S. Art. 8209, sen. 1 (part).)

§ 61.072. Organization: Quorum

The commission shall organize by electing one of their number chairman and one secretary. Two of the commissioners shall constitute a quorum, and a concurrence of two shall be sufficient in all matters relating to the business of the district. (R.S. Art. 8212.)

§ 61.073. Qualifications

To be qualified for appointment as a commissioner, a person must be a resident of the district, a freehold property taxpayer, and a qualified elector of the county. (R.S. Art. 8209, sen. 1 (part).)

§ 61.074. Term of Office, Removal, and Succession

(a) Each commissioner shall hold office for two years and until his successor has qualified, unless sooner removed by a majority vote of the commissioners court or the board for malfeasance or nonfeasance in office.

(b) All vacancies in the office of commissioner shall be filled for the unexpired term in the manner provided for the original appointment to the office. (R.S. Art. 8209, sen. 3, 4.)

§ 61.075. Commissioner's Oath

Each commissioner shall subscribe an oath before the county judge of the county of jurisdiction to discharge faithfully the duties of his office without favor or partiality, and to render a true account of his activities to the commissioners court or the board which appointed him. The oath shall be filed by the clerk and preserved as a part of the records of the district. (R.S. Art. 8210.)

§ 61.076. Commissioner's Bond

Each commissioner shall execute a good bond for \$1,000, payable to the county judge for the use and benefit of the district and conditioned on the faithful performance of his duties. (R.S. Art. 8211.)

§ 61.077. Commissioners' Compensation

The commissioners are entitled to receive for their services compensation fixed by the commissioners court and entered in the record. (R.S. Art. 8209, sen. 2.)

§ 61.078. District Treasurer

The county treasurer of the county of jurisdiction shall be treasurer of the district. (R.S. Art. 8220, sen. 1 (part).)

§ 61.079. District Treasurer's Bond

(a) Before receiving the proceeds of any district bonds and before receiving any district funds from any source, the district treasurer shall execute a good and sufficient bond payable to the commission for the benefit of the district. The bond shall be in an amount fixed and approved by the commission.

(b) The bond shall be conditioned on the district treasurer's faithfully executing the duties of his office, paying over all money that comes into his hands as the treasurer, and rendering a just account to the commissioners court or the commission when required to do so.

(c) The bond required by this section shall remain in full force and effect as long as any funds belonging to the district are in the possession or under the control of the treasurer. (R.S. Art. 8221, sen. 1, 2, as amended.)

§ 61.080. District Treasurer's Compensation

The district treasurer shall be entitled to receive for his services an amount fixed by the commission. (R.S. Art. 8221, sen. 3, as amended.)

§ 61.081. Duties Imposed without Compensation

The duties and powers conferred on county, city and other officers under this chapter are a part of the legal duty of the officers which they shall perform without additional compensation, unless otherwise provided in this chapter. (R.S. Art. 8263.)

§ 61.082. Court Actions

(a) The district, by and through its commission, may sue and be sued in any court in this state in the name of the district.

(b) The courts of this state shall take judicial notice of the establishment of the district. (R.S. Art. 8228.)

[Sections 61.083 to 61.110 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**Section 61.111. Purposes of District**

A district may:

(1) improve rivers, bays, creeks, streams, and canals inside or adjacent to the district;

(2) construct and maintain canals and waterways to permit or aid navigation; and

(3) issue bonds to pay for these improvements. (R.S. Art. 8198, sen. 2.)

§ 61.112. Employees and Counsel

(a) The commission may employ assistant engineers and other employees which are necessary and may determine their compensation.

(b) The commission may retain counsel to represent the district in the preparation of contracts or in the conduct of any proceedings in or out of court and to be the legal advisor of the commission on terms and for fees agreed on by the parties. (R.S. Art. 8227.)

§ 61.113. Authority to Go on Land

The commissioners and engineers, together with all necessary teams, help, tools and instruments, may go on any land located inside the district for the purpose of examining the land and making plans, surveys, maps, and profiles, without subjecting themselves to the laws of trespass. (P.C. Art. 851, sen. 1.)

§ 61.114. Penalty for Prohibiting Entry to Land

Any person who wilfully prevents or prohibits any officer listed in Section 61.113 of this code from entering land for the purposes stated in that section on conviction shall be punished by a fine of not more than \$25 a day for each day he prevents or prohibits the officer from entering the land. (P.C. Art. 851, sen. 2.)

§ 61.115. Acquisition of Property

The commission may acquire by gift, grant, purchase, or condemnation any necessary rights-of-way and property for necessary improvements contemplated by the district. (R.S. Art. 8225, sen. 1, as amended.)

§ 61.116. Acquisition of State Land and Flats

(a) Any district organized under this chapter or any general law under which navigation districts may be created may purchase from the State of Texas any land and flats belonging to the state which are covered or partly covered by the water of any of the bays or arms of the sea.

(b) These areas shall be used by the district for the purposes authorized, and the district may dredge or fill in and reclaim the land or improve it in other ways.

(c) The Commissioner of the General Land Office shall sell the land on application at the price of \$1 an acre.

(d) The commission shall file an application with the Commissioner of the General Land Office which shall describe the land sought to be purchased. The application shall be accompanied by a payment of \$1 in cash for each acre of land included in the application.

(e) If the Commissioner of the General Land Office is satisfied that the applicant is a properly created navigation district, a patent shall be issued to the navigation district conveying to the district the right, title, and interest of the state in the land described in the application.

(f) The funds derived from the sale shall be paid to the proper funds of the state by the Commissioner of the General Land Office. (R.S. Art. 8225, sen. 2, 3, 4, 5, as amended.)

§ 61.117. Limitations on Sales of State Land and Flats

(a) The State of Texas shall retain its rights in all mines and minerals, including oil and gas, in and under the land, together with the right to enter the land for the purpose of development when it sells land under Section 61.116 of this code.

(b) All sales of land under Section 61.116 are subject to oil, gas, or mineral leases in existence at the time of the sale.

(c) Any land which has been franchised or leased or is being used by any navigation district or by the United States for the purpose of navigation, industry, or any other purpose incident to the operation of a port shall not be entered or possessed 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 except by directional drilling.

(d) No surface drilling location may be nearer than 660 feet and special permission from the Commissioner of the General Land Office is necessary to make any surface location nearer than 2,160 feet, measured at right angles from the nearest bulkhead line designated by a navigation district or the United States as the bulkhead line or from the nearest dredged bottom edge of any channel, slip, or turning basin which has been dredged, or which has been authorized by the United States as a federal project for future construction, whichever is nearer. (R.S. Art. 8225, sen. 6, 7, as amended.)

§ 61.118. Construction Contracts

(a) Except as provided in this section, the provisions of Chapter 3, Title 128, Revised Civil Statutes of Texas, 1925, governing water control and preservation districts which relate to advertising for, awarding, and performing contracts for the construction of improvements and work authorized by law shall apply to construction contracts made under this subchapter.

(b) The bidder's deposit for a construction contract shall be five percent of the amount bid, and the contractor's bond shall be for not less than 25 percent of the contract price.

(c) The contract shall be signed by at least two of the commissioners, and the partial payments made under the contract shall not be more than 90 percent of the contract price.

(d) In case of public calamity or extreme emergency which makes it necessary to act at once to preserve the property of the district and its residents or in case of unforeseen damage to the property or equipment of the district, the provisions of this section requiring advertisement for bids under Article 7853, Revised Civil Statutes of Texas, 1925, may be waived. In any of these situations, the commission shall record in the minutes of the district that an emergency exists and the facts which gave rise to the emergency. (R.S. Art. 8224, sen. 1 (part), 2, 3, as amended.)

§ 61.119. Interest in Contract of Navigation District

If the county judge, a county commissioner, a member of the board or the commission, or the engineer shall directly or indirectly become interested in a contract for work to be done by the district or in any fee paid by the district, which would allow him to receive any money consideration or other thing of value except in payment of services as provided by law, on conviction he shall be confined in jail for not less than six months nor more than one year. (P.C. Art. 374.)

§ 61.120. Laws Governing Certain Functions of District

Chapter 3, Title 128, Revised Civil Statutes of Texas, 1925, relating to eminent domain, employment and duties of the district engineer, cooperation with the federal government, and the director's annual report shall apply to this chapter. (R.S. Art. 8224, sen. 4, as amended.)

[Sections 61.121 to 61.150 reserved for expansion]

SUBCHAPTER E. PORT FACILITIES

Section 61.151. Authority to Operate and Develop Port Facilities

(a) A district created for the development of deep-water navigation which includes a city with a population of more than 100,000, according to the last preceding federal census, may operate and develop ports and waterways inside the district and extending to the Gulf of Mexico.

(b) The district may acquire, purchase, take over, construct, maintain, operate, develop, and regulate wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, lighterage, land, towing facilities, and other facilities or aids incident to or necessary to the operation or development of ports and waterways. (R.S. Art. 8229, sen. 1 (part), as amended.)

§ 61.152. Petition

(a) If the board decides to exercise the rights, powers, and authority provided in this subchapter, it shall certify this desire to the commissioners court and shall submit a petition requesting that an election be held.

(b) The commissioners court shall schedule a hearing on the petition not less than 30 nor more than 60 days after the date of the petition. The hearing may be held at any place designated by the commissioners court. (R.S. Art. 8230.)

§ 61.153. Hearing: Testimony

Any person who may be affected may appear before the board on the day of the hearing and contest the necessity, advisability, or practicability of the election and may offer testimony in favor of or against the election. (R.S. Art. 8231.)

§ 61.154. Election Order

After the hearing, if the board determines that the election should be held, the commissioners court shall order an election to determine wheth-

er or not the district should adopt the rights, powers, and authority provided in this subchapter. The order shall include the date on which the election will be held. (R.S. Art. 8232.)

§ 61.155. Ballots

The ballots for the election shall be printed to provide for voting for or against the following proposition: "The development of the port by the navigation district." (R.S. Art. 8233, sen. 1.)

§ 61.156. Election Expense

The district shall pay the expense of the election. (R.S. Art. 8233, sen. 2.)

§ 61.157. Declaration of Results

If the result of the election favors the development of a port by the district, the commissioners court shall declare the result and shall enter in the minutes of the commissioners court the following declaration:

"Commissioners Court _____ County, Texas, _____ term A.D. _____, in the matter of the petition of the navigation board, requesting that the right, power, and authority be granted to the navigation district to develop the port of _____ (enter the name of the municipality). Be It Known, that at an election called for that purpose in the district, held on the ____ day of _____ A.D. _____, a two-thirds majority of the electors voting on the proposition voted to develop port facilities.

"Now, Therefore, It is considered and ordered by the commissioners court that the district is authorized to proceed with the development of the port as authorized by law." (R.S. Art. 8234.)

§ 61.158. Appointment of Commissioners

(a) If the provisions of this subchapter are adopted by a district, the district shall be managed, governed, and controlled by a commission composed of five commissioners, who shall be subject to the supervision and control of the board.

(b) Two of the commissioners shall be appointed by a majority of the city council of the municipality having a population of 100,000 or more, and two of the commissioners shall be appointed by a majority of the commissioners court.

(c) The chairman of the commission shall be the fifth member and shall be elected by majority vote of the city council and commissioners court meeting in joint session called by the county judge. (R.S. Art. 8235, sen. 1 (part), 4.)

§ 61.159. Term of Office: Removal: Succession

(a) Except for the original appointments, each commissioner shall serve for a term of two years and until his successor is qualified.

(b) One of the original appointees of the city council and one of the commissioners court shall serve for one year. The other original appointees shall serve for two years.

(c) Each commissioner shall serve his full term unless removed by the authority which appointed him. He may be removed for malfeasance, nonfeasance in office, inefficiency, or other sufficient cause.

(d) If a vacancy occurs through death, resignation, or other reason, the vacancy shall be filled in the manner provided for making the original appointment. (R.S. Art. 8235, sen. 1 (part), 2, 3, 8, 9, 10.)

§ 61.160. Qualifications; Compensation; Authority

(a) Each commissioner shall be a freehold property taxpayer and a qualified elector in the district.

(b) Each commissioner shall execute a bond and shall subscribe the required oath.

(c) Each commissioner is entitled to receive the compensation provided by the board.

(d) A majority of the commissioners shall have the authority to act, and all acts of the commission are subject to the supervision of the board. (R.S. Art. 8235, sen. 5, 6, 7, 10.)

§ 61.161. Eminent Domain

(a) The district may exercise the power of eminent domain.

(b) A district created under this chapter may elect to take advantage of the condemnation procedure provided in Subchapter F of Chapter 51 of this code. (R.S. Art. 8238, sen. 1 (part), as amended; 39th Legis., G.L., Ch. 25, Sec. 126, sen. 100, as amended.)

§ 61.162. Lease and Rental of Facilities

A district may acquire and take over, by lease or rental agreements, for a period of not less than 25 years, the docks, wharves, buildings, railroads, land, improvements, and other facilities already provided, constructed, or owned by any incorporated municipality situated within the district only with the consent of the lawful authorities of the municipality and on terms mutually agreed on by the district and the municipality.

(1) No agreement for the use, acquisition, or operation of the property or facilities of the municipality by the district shall be for a lease or rental value which is more than the annual net revenue derived or to be derived by the district after payment of the expenses of operation and maintenance of the property and facilities.

(2) The district shall have no supervision or control over the property or facilities owned, controlled, or constructed by the municipality until agreement for the lease and rental of the property by the district has been made.

(3) A district that is leasing land or facilities from a municipality may purchase or acquire the property in the manner provided in this subchapter.

(4) The commission and the officials of the municipality shall be authorized to enter into an agreement stating the land and facilities to be acquired, the amount agreed on as the purchase price, and the terms of the sale. (R.S. Art. 8238, sen. 1 (part), 2, 3, 4, 5, as amended.)

§ 61.163. Unimproved Land

(a) A district which acquires, leases, or takes over unimproved land owned or controlled by any incorporated municipality, may pay for the use, rental, or hire of the land a price or rental value to be fixed by the commission.

(b) If the commission fails or is unable to agree on terms and conditions for the use and rental of the unimproved land, then the district, through the power of eminent domain, may condemn the land or parts of the land which it thinks the interest of the district requires. (R.S. Art. 8239.)

§ 61.164. Franchises

(a) The district may grant franchises to persons or corporations on property owned or controlled by the district if the franchises are granted for purposes consistent with the provisions of this subchapter.

(b) No franchise shall be granted for longer than 30 years nor shall a franchise be granted except on the affirmative vote of a majority of the commissioners at three separate meetings of the commission which meetings may not be closer together than one week.

(c) No franchise shall be granted until after the franchise in its final form is published in full at the expense of the applicant, once a week for three consecutive weeks in a daily newspaper of general circulation published inside the district.

(d) The franchise shall require the grantee to file his or their written acceptance within 30 days after the franchise is finally approved.

(e) Nothing in this section shall be construed as preventing the district from granting revocable licenses or permits for the use of limited portions of waterfront or facilities for purposes consistent with this chapter. (R.S. Art. 8240.)

Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1770, ch. 518, § 15, eff. May 13, 1971.

§ 61.165. Franchise Election

If the commission determines that a proposed franchise should be submitted to a vote of the people, it shall so certify to the commissioners court, and the commissioners court shall order an election on the matter at the earliest legal time. (R.S. Art. 8241.)

§ 61.166. Ballots

(a) The ballot shall explain the nature of the franchise sufficiently to identify it.

(b) The ballots shall be printed to provide for voting for or against the following proposition: "The franchise." (R.S. Art. 8242, sen. 1.)

§ 61.167. Election Result

If at the election a majority of those voting approve the franchise, it shall be granted. If those voting do not approve the franchise, it shall have no force and effect. (R.S. Art. 8242, sen. 2.)

§ 61.168. Petition Protesting Franchise

The franchise may be suspended from taking effect if, before the date when the franchise is granted, a petition signed by qualified voters of the district equal to 10 percent of the total vote cast in the last general election for state officers is presented to the commissioners court protesting the enactment or granting of the franchise. Immediately after the petition is filed, the commissioners court shall order an election on the proposed franchise. The election shall be governed by the provisions of Sections 61.164 and 61.165. (R.S. Art. 8243.)

§ 61.169. Contracts

The provisions governing the award of contracts by districts shall apply in all cases consistent with the provisions of this subchapter except that in case of emergency contracts may be let by the commission for not more than \$1,000 without advertisement for bids. In case of urgent necessity or present calamity, advertisement for bids may be waived. (R.S. Art. 8246.)

§ 61.170. Authority to Incur Debt

(a) The district may issue bonds for the purposes stated in Section 61.151 of this code and for the purpose of

- (1) acquiring necessary land, rights-of-way, or dumping grounds;
- (2) extension or improvement of belt railway lines; or
- (3) construction of improvements, wharves, docks, or other facilities or aids to navigation.

(b) The obligations may be secured by liens on the property acquired, constructed, or improved. Available revenue may be pledged as additional security.

(c) The district may borrow funds for current expenses and may evidence the debt by warrants payable not later than the close of any calendar year for which the loans are made. The warrants shall never exceed the anticipated revenue. (R.S. Art. 8229, sen. 1 (part), 2.)

§ 61.171. Bonds

(a) On compliance with the provisions of this subchapter the district may issue bonds to pay for the improvements and facilities and to acquire the property authorized in this subchapter.

(b) The district also may issue bonds to purchase wharves, docks, warehouses, bunkering facilities, belt railroads, land to be used for port purposes and development, or other facilities constructed or owned by the municipality.

(c) An election shall be held to approve the issuance of the bonds, and the bonds shall be issued in the manner provided by this chapter for issuing other bonds.

(d) The outstanding bonds and the additional bonds may not amount to more than 10 percent of the assessed value of real property in the district as shown by the last annual assessment made for the county and state. (R.S. Art. 8236, as amended.)

§ 61.172. Financing Purchases

(a) The commission may have issued in the manner provided in this chapter bonds of the district in an amount that represents the purchase price of the land or facilities less any outstanding bonds previously issued by the municipality.

(b) The bonds shall be issued, registered, and sold in the same manner as other bonds of the district, and the proceeds shall be paid to the municipality.

(c) If the municipality has outstanding bonds, the district shall assume payment of these bonds and interest, and the commissioners court shall levy a tax sufficient to pay the interest due and the principal due at the maturity of the bonds. The taxes shall be collected as other taxes are now collected, and payment shall be made to the city by the commission on or before the due dates of interest and principal for the sole purpose of paying the interest on and principal of the outstanding bonds.

(d) The municipality shall not be released from any obligation to the owners and holders of any outstanding bonds issued on account of the land or facilities purchased.

(e) The municipality shall not levy, assess, and collect any tax for interest and sinking fund unless the payment from the district shall fail in whole or in part. In the event of such failure, the municipality shall levy and collect the tax necessary to discharge the interest and meet the principal of the outstanding bonds and shall continue to do so until the amounts are paid. Also, the municipality may collect any and all amounts paid on account of the district from the district and in event of the continued failure to make the payments by the district, the municipality may take back the facilities. (R.S. Art. 8238, sen. 6, 7, 8, 9, 10, 11, as amended.)

§ 61.173. Election on the Purchase of Facilities

(a) No bonds shall be issued or tax levied until the question of purchase of the facilities is submitted to a vote of the people in the district.

(b) In addition to the requirement for submitting bonds to a vote, the notice of election shall include:

- (1) a copy of the agreement;
- (2) the amount of outstanding bonds;
- (3) the amount of bonds sought to be issued by the district; and
- (4) the amount of taxes required to be levied.

(c) The election shall be called and held in the same manner as other elections for bonds, and the ballots shall provide for voting for or against the proposition: "The purchase of municipal facilities and the issuance of bonds and levy of a tax to pay for the bonds."

(d) If the election should carry by a two-thirds vote of the electors voting at the election, then the proposition shall be declared carried and the bonds shall be issued and sold, and the necessary taxes levied in accordance with the provisions of this subchapter. (R.S. Art. 8238, sen. 12, 13, 14, 15, 16, 17.)

§ 61.174. Employees; County Auditor, Duties and Compensation

(a) The commission may employ all persons necessary for the construction, maintenance, operation, and development of the business and facilities of the district and may prescribe their duties and fix their compensation.

(b) The county auditor, as auditor for the district having large port facilities, shall make such additional reports and perform such accounting services in addition to those now required by law as may be reasonably incident to the proper conduct of the business of the district.

(c) Compensation for the county auditor who shall act under this section shall be determined by the judge of the district court or courts having jurisdiction in the county after a hearing with respect to the amount and value of the services performed. The amount shall be paid monthly from funds of the navigation district, and the maximum amount which may be allowed by the district judge for the services shall not be more than the amount now being paid. (R.S. Art. 8245, as amended.)

§ 61.175. Powers

(a) A district operating under this subchapter shall have all the rights, powers, and authority granted by this chapter and shall have all the authority granted by general or special law to navigation districts.

(b) A district operating under this subchapter shall also have the fullest powers consistent with the state constitution for the regulation of wharfage and of all facilities relating to the port, waterways, and district.

(c) The district may assess and collect charges for the use of all facilities acquired or constructed in accordance with the provisions of this subchapter. (R.S. Art. 8237.)

§ 61.176. City Police Powers

Nothing in this subchapter shall repeal or affect the police powers of any municipality inside the district, or any law, ordinance, or regulation authorizing and empowering the municipality to exercise the powers relating to any navigable stream or aids to navigation and facilities in a navigation district, not in conflict with this subchapter. (R.S. Art. 8247.)

[Sections 61.177 to 61.210 reserved for expansion]

SUBCHAPTER F. GENERAL FISCAL PROVISIONS**Section 61.211. Maintenance Fund**

(a) After the district is created all expenses necessarily incurred after the petition was filed in connection with the creation, establishment, and maintenance of the district shall be paid out of the construction and maintenance fund of the district.

(b) The fund shall consist of all money received from the sale of bonds and all other amounts received by the district from any source, except tax collections applied to the sinking fund and payment of interest on the navigation bonds. (R.S. Art. 8219.)

§ 61.212. District Depository

(a) Within 30 days after the commissioners are appointed, the commission shall select a depository for the district in the manner provided by law for the selection of a county depository.

(b) The depository selected by the commission shall serve as the depository for the district for two years and until its successor is selected and has qualified. (R.S. Art. 8221, sen. 5, as amended.)

§ 61.213. District Treasurer's Duties

(a) The district treasurer shall keep an account of all money received by him for the district and paid out on behalf of the district.

(b) The district treasurer shall not pay out any money except on a voucher signed by the chairman of the commission or two of the commissioners or by the commissioners court.

(c) The district treasurer shall preserve in the files all orders for payment of money and shall submit a correct account to the commission or the commissioners court of all matters relating to the financial condition of the district on their request. (R.S. Art. 8220, sen. 1 (part), 2.)

[Sections 61.214 to 61.230 reserved for expansion]

SUBCHAPTER G. BOND AND TAX PROVISIONS**Section 61.231. Issuance of Bonds**

When the commission determines the cost of the proposed improvements, the expenses incident to the improvements, and the cost of maintenance of the improvements, it shall certify to the commissioners court the amount of bonds necessary to be issued. The commissioners court, at a regular or special meeting, shall issue an order directing the issuance of bonds for the district in the amount certified which shall not be more than the amount authorized by the election. (R.S. Art. 8213.)

§ 61.232. Limitation on Bond Issue

Outstanding bonds and additional bonds which are authorized may not be more than one-fourth of the assessed value of the real property in the district, as shown by the last annual assessment of real property made for state and county taxation. (R.S. Art. 8215.)

§ 61.233. Requisites of Bonds

(a) All bonds issued under the provisions of this subchapter shall be issued in the name of the district, signed by the county judge, and attested by the county clerk under the seal of the commissioners court.

(b) The bonds shall be issued in such denominations and payable at such time or times, not more than 40 years from their date, as the commissioners court considers expedient.

(c) All provisions of Chapter 57 of this code governing the approval, registration, and validity of bonds of levee improvement districts shall apply to bonds issued under this subchapter.

(d) The commissioners court or the board shall require a record to be kept of the bonds by the district treasurer the same as for bonds of levee improvement districts. (R.S. Art. 8216.)

§ 61.234. Sale of Bonds

(a) After the bonds are registered, the chairman of the commission shall offer them for sale and shall sell the bonds for the best price possible.

(b) Money received from the sale of the bonds shall be paid immediately to the district treasurer, and he shall deposit it to the credit of the district. (R.S. Art. 8217.)

§ 61.235. Chairman's Bond

Before the chairman of the commission may sell the bonds, he shall execute a good bond, payable to the county judge and his successors, in an amount fixed by the commission, conditioned on the faithful discharge of his duties. The bond shall be approved by the county judge. (R.S. Art. 8218.)

§ 61.236. Tax Levy

(a) When bonds have been approved, the commissioners court annually shall levy and have assessed and collected improvement taxes sufficient to pay the interest on the bonds and to provide a sinking fund to redeem the bonds at maturity.

(b) The commissioners court shall also at the time of the levy of taxes for county purposes, levy and have assessed and collected for the maintenance, operation, and upkeep of the district and its improvements an annual tax of not more than 10 cents on each \$100 valuation.

(c) The commission shall determine a rate within the 10-cent limit as the necessary amount for the maintenance, operation, and upkeep of the district and its improvements. The rate shall be certified to the commissioners court by the commission.

(d) Taxes shall be levied on all property inside the district. (R.S. Art. 8222, as amended.)

§ 61.237. Collection of Taxes

On order of the commissioners court, the tax assessor and collector of each county in the district shall assess and collect district taxes and pay the taxes to the district treasurer, in the manner provided in Chapter 3, Title 128, Revised Civil Statutes of Texas, 1925. The provisions of Chapter 3 relating to taxation, except the levy of maintenance taxes, creation and investment of sinking fund, and the liability of the commissioners court for failure to order the assessment shall apply. (R.S. Art. 8224, sen. 1 (part).)

§ 61.238. Additional Bond Issue

(a) If the proceeds of the original bonds are insufficient to complete the proposed improvements or construction, or if the commission decides to undertake further construction or improvements or requires additional funds with which to maintain the existing improvements, it shall certify

to the commissioners court the necessity for an additional bond issue, stating:

- (1) the amount required;
- (2) the purpose of the additional bonds;
- (3) the rate of interest on the bonds; and
- (4) the term of the bonds.

(b) The commissioners court, on receipt of this information, shall issue the bonds, unless the amount previously authorized has been exhausted, in which case the commissioners court shall first order an election on the issuance of the bonds to be held inside the district at the earliest possible legal time.

(c) The ballots for the issuance of additional bonds shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds." (R.S. Art. 8214.)

§ 61.239. Sinking Fund Investments

The commissioners court may invest the sinking fund in county, municipal, district, or other bonds approved by the attorney general. (R.S. Art. 8223.)

CHAPTER 62. ARTICLE XVI, SECTION 59, NAVIGATION DISTRICTS

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SUBCHAPTER A. GENERAL PROVISIONS

Section 62.001. Definitions

As used in this chapter:

- (1) "District" means a navigation district operating under the provisions of Article XVI, Section 59, of the Texas Constitution.
- (2) "Commission" means the navigation and canal commission.
- (3) "Commissioner" means a navigation and canal commissioner.
- (4) "Board" means the navigation board.
- (5) "County of jurisdiction" means the county in which the district or the greater amount of acreage of the district is located. (New.)

[Sections 62.002 to 62.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

Section 62.021. Creation of District

A navigation district may be created in the manner prescribed by this subchapter under Article XVI, Section 59, of the Texas Constitution. (41st Legis., 1st C.S., Ch. 103, Sec. 4, sen. 1 (part).)

§ 62.022. Composition

A district may include within its boundaries all or part of villages, towns, cities, road districts, drainage districts, irrigation districts, levee districts, other improvement districts, and municipal corporations of any kind but may not include the territory of more than three counties or parts of three counties. (39th Legis., G.L., Ch. 5, Sec. 1, sen. 1 (part), 2 (part); 41st Legis., 1st C.S., Ch. 103, Sec. 4, sen. 1 (part), 2 (part).)

§ 62.023. Petition

(a) Any person may present a petition to the commissioners court in the county of jurisdiction, at a regular or special session, requesting the creation of a district.

(b) The petition shall be signed by 25 of the property taxpaying electors who reside inside the boundaries of the proposed district. If there are less than 75 property taxpaying electors who reside inside the boundaries of the proposed district, the petition shall be signed by one-third of them.

(c) The petition shall include:

- (1) a request that the district be created;
- (2) the boundaries of the district accompanied by a map;
- (3) the general nature of the proposed improvements;
- (4) an estimate of the probable cost of the improvements; and

(5) the name of the district, which shall include the name of the county.

(d) The petition shall be accompanied by an affidavit of the petitioners' qualifications. (39th Legis., G.L., Ch. 5, Sec. 2, sen. 1 (part).)

§ 62.024. Deposit

At the time the petition is filed with the commissioners court, the petitioner shall deposit \$500 in cash with the clerk of the commissioners court. The clerk shall keep the deposit until after the result of the election to create the district is declared and entered in the record by the commissioners court. (39th Legis., G.L., Ch. 5, Sec. 26, sen. 1 (part).)

§ 62.025. Date of Hearing

(a) On presentation of the petition, the commissioners court of the county of jurisdiction shall set it for a hearing at the regular term of the commissioners court or at a special session called for that purpose. The hearing shall be held not less than 30 nor more than 60 days from the day the petition is presented.

(b) If the hearing is required by Section 62.026 of this code, to be held by the navigation board, the commissioners court shall set the hearing at the regular meeting place of the commissioners court not less than 30 nor more than 60 days from the day the petition is presented without reference to any term of the commissioners court. (39th Legis., G.L., Ch. 5, Sec. 2, sen. 1 (part); Sec. 4 (part).)

§ 62.026. Hearing Before the Board

If the boundaries of a proposed district include all or part of a city or cities acting under special charter granted by the legislature, the hearing on the petition shall be held before the board. (39th Legis., Ch. 5, Sec. 3, sen. 1 (part), as amended.)

§ 62.027. Notice of Hearing

(a) The commissioners court shall order the clerk to post a copy of the petition together with the order of the commissioners court in five public places in the county, one of which shall be the courthouse door and four of which shall be in different places inside the limits of the proposed district. The notice shall be posted not less than 20 days before the time set for the hearing.

(b) If the district is composed of more than one county, a copy of the petition together with the order shall be posted at the courthouse door of each county in which any portion of the proposed district is located, and four copies shall be posted at four other places inside the included territory of each county.

(c) The clerk shall receive \$1 as compensation for posting each notice and five cents a mile for each mile necessarily traveled in posting the notices. (39th Legis., G.L., Ch. 5, Sec. 2, sen. 1 (part), 2, 3; Sec. 4 (part).)

§ 62.028. Hearing on Petition

(a) The commissioners court or the board has exclusive jurisdiction to hear and determine all contests and objections and other matters relating to creating a district and in all subsequent proceedings.

(b) Any person who has taxable property in the proposed district or who may be affected by the creation of the district may appear at the hearing and contest or support the creation of the district, offer testimony for or against the boundaries, show that the proposed improvements would or would not be of any public utility and would or would not be practicable and feasible, present evidence of the probable cost of the improvements, or present any other matter relating to the district.

(c) The commissioners court or navigation board may adjourn the hearing from day to day, and judgments or decisions rendered by the commissioners court or the board are final except as otherwise provided by this chapter. (39th Legis., G.L., Ch. 5, Sec. 7.)

§ 62.029. Findings

(a) If the commissioners court or the board finds that the improvements would be feasible and practicable and would be a public benefit and utility and approves the boundaries as set out in the petition, it shall compute the amount of money necessary for the improvements and all incidental expenses and shall determine whether to issue bonds for the full amount or for a smaller amount in the first instance.

(b) The commissioners court or the board shall specify:

- (1) the amount of bonds to be issued;
- (2) the length of time the bonds will run; and
- (3) the rate of interest.

(c) The findings and specifications together with a map of the district shall be recorded in the minutes of the commissioners court or the board.

(d) If the commissioners court or the board does not approve the proposed boundaries of the district, it shall define the boundaries it considers correct. Before any change is made in the boundaries of the proposed district, notice shall be given and a hearing held as provided in Sections 62.027 and 62.028 of this code.

(e) If the commissioners court or the board finds that the improvements are unnecessary and would not be practicable or feasible and would not be a public benefit or utility, it shall enter these findings in the minutes and shall dismiss the petition at the cost of the petitioners. However, the dismissal of a petition does not prevent or conclude the presentation of a similar petition at a later date. (39th Legis., G.L., Ch. 5, Sec. 8.)

§ 62.030. Election Order

(a) If the commissioners court or the board finds in favor of the petitioners for the creation of the district, the commissioners court of the county of jurisdiction shall order an election to be held inside the proposed district at the earliest legal time.

(b) The order of the court shall provide for submitting to the electors residing in the proposed district the question of whether or not the district will be created and whether or not proposed bonds will be issued and a tax levied sufficient to pay the interest and provide a sinking fund sufficient to redeem the bonds at maturity.

(c) The order shall specify:

- (1) the amount of bonds to be issued;
- (2) the length of time the bonds will run; and
- (3) the rate of interest. (39th Legis., G.L., Ch. 5, Sec. 9, sen. 1, 2 (part).)

§ 62.031. Notice of Election

(a) The clerk of the commissioners court shall prepare notice of the election and shall post the notice for 30 days before the day set for the election.

(b) The notice shall be posted in the same places specified in Section 62.027 of this code.

(c) The notice shall state:

- (1) the time and place of holding the election;
- (2) the proposition to be voted on; and
- (3) the purpose for which the bonds are to be issued and the amount of the bonds.

(d) The notice shall contain a copy of the order of the court ordering the election. (39th Legis., G.L., Ch. 5, Sec. 10.)

§ 62.032. Ballot

The ballot shall be printed to provide for voting for or against the proposition: "The creation of the navigation district and the issuance of bonds and levy of a tax for the payment of the bonds." (39th Legis., G. L., Ch. 5, Sec. 9, sen. 2 (part).)

§ 62.033. Conduct of Election

(a) The commissioners court shall issue an order creating and defining the voting precincts in the proposed district and shall name polling places within the precincts. In designating the polling places, the commissioners court shall take into consideration the convenience of the voters in the proposed district.

(b) The commissioners court shall select and appoint the judges and other necessary officers of election. (39th Legis., G.L., Ch. 5, Sec. 11, sen. 3.)

§ 62.034. Canvass of Returns

(a) Immediately after the election, the election officers shall make returns of the result and return the ballot boxes to the clerk of the commissioners court of jurisdiction.

(b) The clerk shall deliver the boxes and the returns of the election to the commissioners court of jurisdiction at its next regular or special session.

(c) At that session, the commissioners court shall canvass the returns of the election. (39th Legis., G.L., Ch. 5, Sec. 12 (part).)

§ 62.035. Declaration of Result

(a) If a majority of the votes favor creating the district, issuing bonds, and levying a tax, the commissioners court shall declare the result and enter it in the minutes of the commissioners court as follows:

"Commissioners court of _____ County, Texas. _____ term A.D. _____, in the matter of the petition of _____ and _____ others requesting the creation of a navigation district, issuance of bonds, and levy of a tax in the petition described and designated by the name of _____ Navigation District. Be it known that at an election called for that purpose in the district, held on the _____ day of _____ A. D. _____, a majority of the electors voting voted in favor of the creation of the navigation district, the issuance of bonds, and the levy of a tax. Now, therefore, it is considered and ordered by the commissioners court that the navigation district, be and the same is hereby established by the name of _____ Navigation District, and that bonds of the district in the amount of \$_____ be issued, and a tax of _____ cents on the \$100 valuation, or so much thereof as may be necessary to be levied upon all property within the navigation district, whether real, personal, mixed, or otherwise, sufficient in amount to pay the interest on the bonds and provide a sinking fund to redeem that at maturity, and that if the tax shall at any time become insufficient for these purposes it shall be increased until it is sufficient. The metes and bounds of the district are as follows: (Give metes and bounds)." (39th Legis., Ch. 5, Sec. 12 (part).)

§ 62.036. Expenses

(a) If the result of the election favors the creation of the district, the clerk shall return the \$500 deposit required by Section 62.024 of this code to the signers of the original petition, their agents or their attorney.

(b) If the result of the election is against the creation of the district, the clerk shall pay out of the \$500 deposit on vouchers signed by the county judge, all costs and expenses relating to the proposed district up to and including the election. The balance, if any, of the \$500 shall be returned to the signers of the original petition, their agents, or their attorney. (39th Legis., G.L., Ch. 5, Sec. 26 (part).)

[Sections 62.037 to 62.060 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 62.061. Navigation Board

(a) The navigation board shall include the members of the commissioners court and the mayor and aldermen or commissioners of the included city or cities acting under special charter granted by the legislature. If there is only one city or part of one city acting under special charter granted by the legislature inside the proposed district and if the charter of the city at any time authorizes the city council or city board of commissioners to be greater in number than the members of the commissioners court, the number of aldermen or city commissioners who are entitled to sit and vote as members of the board along with the mayor will be limited to that number which equals the number of members of the commissioners court. The aldermen or city commissioners entitled to act as members of the board shall be determined by the members of the city council or city board of commissioners among themselves.

(b) The county judge, and in his absence the mayor, shall preside at meetings of the board and each member of the board, including the presiding officer, is entitled to a vote.

(c) A majority of the members of the board constitute a quorum, and action of a majority of the quorum shall control.

(d) The county clerk shall enter the proceedings of the board in a book kept for that purpose, and the book shall be available for public inspection. (39th Legis., G.L., Ch. 5, Sec. 3, sen. 1 (part), 2, 3, as amended; Sec. 5.)

§ 62.062. Appointment of Initial Commissioners

(a) After the creation of the district, the commissioners court or board shall appoint three navigation and canal commissioners who shall compose the navigation and canal commission. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 1 (part), as amended.)

(b) After the initial commissioners on the navigation and canal commission complete their terms, subsequent commissioners shall be elected. (New.)

§ 62.063. Election of Commissioners

(a) Commissioners shall be elected on the second Saturday in July of each odd-numbered year at an election ordered by the commission.

(b) The secretary of the commission shall give notice of the election by posting at least three copies of the notice at three public places inside the district or by publishing the notice for 20 days before the election in a newspaper with general circulation in the district. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 3 (part), 5 (part), as amended.)

§ 62.0631. Appointment of Commissioners

(a) Instead of electing commissioners as provided in Section 62.063 of this code, the commissioners court or board may appoint three navigation and canal commissioners to serve on the commission.

(b) The commissioners shall hold office for a term of two years and until their successors are appointed and have qualified.

(c) Commissioners may be removed from office by a majority of the commissioners court or the board for malfeasance or nonfeasance in office.

(d) Successors to members of the commission shall be appointed by a majority vote of the commissioners court or the board.

Added by Acts 1971, 62nd Leg., p. 1771, ch. 518, § 18, eff. May 31, 1971.

Section 19 of the 1971 act provided: "All acts and governmental proceedings relating to any navigation district created or operating under the authority of Article XVI, Section 59, of the Texas Constitution, having an appointed navigation and canal commission and all officials of the district in connection with activities of the district are validated as of the respective dates of

the acts and proceedings. The provisions of this section may not be construed to validate any governmental acts and proceedings, if at the time this section becomes effective the governmental act or proceeding is the subject of litigation pending in any court of competent jurisdiction, if the litigation is ultimately determined against the legality thereof."

§ 62.064. Qualifications of Commissioners

Each person who is appointed or elected commissioner shall be a resident of the proposed navigation district and shall be an elector of the county. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 1 (part), as amended.)

§ 62.065. Term of Office

Commissioners shall hold office for staggered terms of six years and until their successors are elected and have qualified. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 2 (part), 3 (part), 4, as amended.)

§ 62.066. Vacancies

(a) A vacancy on the commission shall be filled by the remaining members of the commission.

(b) If two or more vacancies on the commission occur at the same time, a special election may be called on petition signed by 50 electors.

(c) Notice of the election shall be given by publishing or posting notice for at least 20 days before the election.

(d) The petition for the election shall include the names of the judges and clerks of the election, and the judges and clerks shall jointly canvass the returns, declare the result, and issue certificates of election to the successful candidates. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 7 (part), as amended.)

§ 62.067. Removal from Office

(a) A commissioner may be removed from office for malfeasance or nonfeasance in office by unanimous vote of the commissioners court or the board after a hearing held according to law.

(b) Appeal from a judgment of removal may be taken to a district court of the county in which the commissioner resides. The court shall try the case de novo. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 2 (part), as amended.)

§ 62.068. Oath of Commissioners

(a) Before each commissioner begins to perform his duties, he shall take and subscribe before the county judge of the county of jurisdiction an oath to discharge faithfully the duties of his office without favor or partiality and to render a true account of his activities to the commissioners court of the county of jurisdiction or the board whenever required to do so.

(b) The oath shall be filed by the clerk of the commissioners court and preserved as part of the records of the district. (39th Legis., G.L., Ch. 5, Sec. 14.)

§ 62.069. Bond of Commissioners

Before a commissioner begins to perform his duties, he shall execute a good and sufficient bond for \$1,000, payable to the county judge of the county of jurisdiction for the use and benefit of the district and conditioned on the faithful performance of his duties. (39th Legis., G.L., Ch. 5, Sec. 15.)

§ 62.070. Compensation of Commissioners

Each commissioner shall receive for his services the compensation determined by the commissioners court of the county of jurisdiction. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 1 (part), as amended.)

§ 62.071. Organization of Commission

(a) The commission shall organize by electing one of the members chairman and one secretary.

(b) Two of the commissioners constitute a quorum. A concurrence of two is sufficient in all matters relating to the business of the district. (39th Legis., G.L., Ch. 5, Sec. 16.)

§ 62.072. Two-County Districts; Appointment of Commission

(a) In a district composed of land in two or more counties, the commissioners court of the county of jurisdiction by a majority vote shall appoint one commissioner. The commissioners court of the other county included in whole or in part within the district shall appoint by a majority vote a second commissioner. The two commissioners courts shall appoint the third commissioner at a joint meeting of the two commissioners courts called and presided over by the county judge of the county of jurisdiction.

(b) Notice in writing of the joint meeting of commissioners courts shall be given by mail or delivered in person at least two days before the day set for the meeting.

(c) Each of the county judges and county commissioners composing the commissioners courts of both counties shall be entitled to one vote in appointing the third commissioner. A majority vote of those present at the meeting shall be sufficient to make the appointment.

(d) On the termination of the term of office of each commissioner or in case of vacancy, a successor shall be appointed by the same commissioners court which appointed the commissioner whose place is being filled.

(e) Except for the matters expressly provided for in this section, two-county districts are subject to all other provisions of this subchapter. (39th Legis., G.L., Ch. 5, Sec. 47, as added.)

§ 62.073. District Treasurer

The county treasurer of the county of jurisdiction shall be treasurer of the district. (39th Legis., G.L., Ch. 5, Sec. 32, sen. 1 (part).)

§ 62.074. Treasurer's Bond

(a) The county treasurer shall execute a good and sufficient bond, payable to the commissioners, in an amount equal to twice the amount of funds he will hold at any time as treasurer of the district. The commissioners shall estimate the sum to be used as a basis for computing the amount of the required bond. The bond shall be conditioned for the

faithful performance by the treasurer of his duties for the district and must be approved by the commissioners.

(b) When any bonds are voted by the district, the county treasurer, before receiving the proceeds from the sale of the bonds, shall execute an additional good and sufficient bond, payable to the commissioners, in an amount which is twice the amount of bonds issued. This additional bond shall be conditioned and approved in the same manner as the first but shall not be required after the treasurer has disbursed the proceeds of the bond issue. (39th Legis., G.L., Ch. 5, Sec. 33 (part).)

§ 62.075. Treasurer's Compensation

The county treasurer shall be allowed as compensation for his services as treasurer of the district the amount determined by the commissioners. The compensation may not exceed the percentage authorized by law for his services as county treasurer. (39th Legis., G.L., Ch. 5, Sec. 33 (part).)

§ 62.076. District Engineer

(a) The commission may employ a competent engineer who shall serve at the will of the commission.

(b) The district engineer shall receive the compensation determined by the commission. (39th Legis., G.L., Ch. 5, Sec. 17, sen. 1.)

§ 62.077. Assistant Engineers and Employees; Counsel; Salaries and Fees

(a) The commission may employ assistant engineers and other employees which may be necessary.

(b) The commission may employ counsel to represent the district in the preparation of any contract, to conduct any proceedings in or out of court, and to be the legal adviser of the commission on such terms as may be agreed upon by the commission.

(c) The amount of compensation for employees and fees of counsel shall be determined by the commission. (39th Legis., G.L., Ch. 5, Sec. 44 (part).)

§ 62.078. Suits; Judicial Notice

(a) A district established under this chapter may, by and through the commission, sue and be sued in all courts of this state in the name of the district.

(b) All courts of this state shall take judicial notice of the establishment of all districts. (39th Legis., G.L., Ch. 5, Sec. 46.)

[Sections 62.079 to 62.100 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 62.101. Purposes of District

A district may be created under this chapter to provide, in or adjacent to its boundaries, for:

- (1) the improvement, preservation, and conservation of inland and coastal water for navigation;
- (2) the control and distribution of storm water and floodwater of rivers and streams in aid of navigation; and
- (3) any other purposes necessary or incidental to the navigation of inland and coastal water or in aid of these purposes, as stated in Article XVI, Section 59, of the Texas Constitution. (41st Legis., 1st C.S., Ch. 103, Sec. 4, sen. 2 (part).)

§ 62.102. Districts as Governmental Agencies

All districts created under this chapter shall be governmental agencies and bodies politic and corporate with the powers of government and with the authority to exercise the rights, privileges, and functions which are essential to the accomplishment of those purposes. (41st Legis., 1st C.S., Ch. 103, Sec. 4, sen. 2 (part).)

§ 62.103. Duties of County Officials

The powers and duties conferred by this chapter on the county judge, members of the commissioners court, the mayor and aldermen or commissioners of cities, the county clerk, and other officers are made a part of the legal duty of those officials. Unless otherwise provided in this chapter, these persons shall exercise and perform these powers and duties without additional compensation. (39th Legis., G.L., Ch. 5, Sec. 6.)

§ 62.104. Duties of District Engineer

It shall be the duty of the district engineer:

- (1) to make all necessary surveys, examinations, investigations, maps, plans, and drawings with reference to proposed improvements;
- (2) to make estimates of the cost of proposed improvements;
- (3) to supervise the work of improvement; and
- (4) to perform all duties which may be required of him by the commission. (39th Legis., G.L., Ch. 5, Sec. 17, sen. 2, 3.)

§ 62.105. Right-of-Way

The commission may by gift, grant, purchase, or condemnation acquire the necessary right-of-way and property of any kind for all necessary improvements contemplated by this chapter. (39th Legis., G.L., Ch. 5, Sec. 35.)

§ 62.106. Condemnation Proceedings

(a) The district may exercise the power of eminent domain to condemn and acquire the right-of-way over and through any and all public and private land necessary:

- (1) for the improvement of any river, bay, creek, or stream;
- (2) for the construction and maintenance of any canal or waterway; and
- (3) for any and all purposes authorized by this chapter.

(b) Condemnation proceedings instituted under Subsection (a) of this section shall be instituted under the direction of the commission and in the name of the district. The assessment of damages shall be in conformity with the laws of the State of Texas for condemnation and acquisition of rights-of-way by railroads.

(c) No appeal from the finding and assessment of damages by the commissioners shall have the effect of causing a suspension of work by the commission in prosecuting the work of improvement in all of its details.

(d) No right-of-way may be condemned through any part of an incorporated city or town without the consent of the lawful authorities of that city or town.

(e) A district created under this chapter may elect to take advantage of the condemnation procedure provided in Subchapter F of Chapter 51 of this code. (39th Legis., G.L., Ch. 5, Sec. 34; 39th Legis., G.L., Ch. 25, Sec. 126, sen. 100, as amended.)

§ 62.107. Acquisition of Land

(a) Any district created under this chapter may acquire by gift, purchase, or condemnation and may own land adjacent or accessible to the

navigable water and ports developed by it which may be necessary or required for any and all purposes incident to or necessary for the development and operation of the navigable water or ports within the district, or may be necessary or required for or in aid of the development of industries on the land.

(b) The district may lease any part of the acquired land to any individual or corporation and may charge for the lease reasonable tolls, rents, fees, or other charges. The district may use the proceeds both for the maintenance and operation of the business of the district and for the purpose of making the district self-supporting and financially solvent and returning the construction costs of the improvements within a reasonable period.

(c) The acquisition of land for the purposes included in this section and the operation and industrial development of ports and waterways are a public purpose and a matter of public necessity. (39th Legis., G.L., Ch. 5, Sec. 50, as added.)

§ 62.108. Entry on Property

The commissioners and the engineers of a district together with all necessary teams, help, tools, and instruments may go on any land inside the district to examine the land and to make plans, surveys, maps, and profiles without subjecting themselves to the action of trespass. (39th Legis., G.L., Ch. 5, Sec. 36.)

§ 62.109. Bids

(a) Any person, corporation, or firm which desires to bid on the construction of any work advertised under Section 62.110 of this code shall, on application to the commission, be furnished the survey, plans, and estimates for the work.

(b) All bids or offers for the work shall be in writing, sealed, and delivered to the chairman of the commission together with a certified check for at least five percent of the total amount of the bid.

(c) If a bid is accepted but the bidder refuses to enter into a proper contract, the deposit required by Subsection (b) of this section shall be forfeited to the district.

(d) Any and all bids may be rejected at the discretion of the commission.

(e) A district may take advantage of the bid procedure in Sections 63.168-63.170 of this code by passing a simple resolution and entering it in its minutes. (39th Legis., G.L., Ch. 5, Sec. 38; 58th Legis., Ch. 482, Sec. 1A.)

§ 62.110. Notice of Bids

Notice that a contract is to be awarded shall be given by publishing notice once a week for four consecutive weeks in one or more newspapers with general circulation in the state and by posting notice for at least 30 days in five public places in the county of jurisdiction, one of which shall be the courthouse door and at least two of which shall be inside the district. (39th Legis., G.L., Ch. 5, Sec. 37, sen. 1 (part).)

§ 62.111. Award of Contract

(a) All contracts for improvements, except those carried out and performed by the government of the United States, shall be awarded by the commission to the lowest and best responsible bidder.

(b) Nothing in this section shall prevent the making of more than one improvement. Where more than one improvement is to be made, a con-

tract may be awarded separately for each improvement or one contract may be awarded for all the improvements. (39th Legis., G.L., Ch. 5, Sec. 37, sen. 1 (part), 2.)

§ 62.112. Interest in Contracts

No county judge or county commissioner of any county in a district, board member, or district engineer may be directly or indirectly interested for himself or as agent for another in a contract for the construction of work to be performed by the district. (39th Legis., G.L., Ch. 5, Sec. 45.)

§ 62.113. Form of Contracts

All contracts made by the commission shall be in writing and signed by the contractors and at least two of the commissioners. A copy of the contract shall be filed with the county clerk. (39th Legis., G.L., Ch. 5, Sec. 39.)

§ 62.114. Bond of Contractor

(a) The party, firm, or corporation to whom a contract is awarded under Section 62.111 of this code shall execute a bond, payable to the commission, for twice the amount of the contract price, conditioned on faithful performance of the obligations, agreements, and covenants of the contract and that in default of the performance he will pay to the district all damages sustained by reason of the default.

(b) The bond shall be approved by the commission. (39th Legis., G.L., Ch. 5, Sec. 40.)

§ 62.115. Supervision of Work; Report

(a) Unless done under the supervision of the United States, all work contracted for by the commission shall be done under the supervision of the district engineer.

(b) After work is completed according to a contract awarded by the commission, the district engineer shall make a detailed report of the work to the commission. The report shall show whether or not the contract has been fully complied with and if not, in which particular the contractor has failed to comply. (39th Legis., G.L., Ch. 5, Sec. 41.)

§ 62.116. Inspection of Work; Payment

(a) The commission shall inspect the progress of work being done under a contract, and on completion of the contract, the commission shall draw a warrant on the county treasurer payable to the contractor or his assignee for the amount of the contract price. The warrant shall be paid out of the construction and maintenance fund of the district.

(b) If the commission considers it advisable, it may contract for work to be paid for in partial payments as the work progresses. The partial payments may not exceed in the aggregate eighty percent of the total amount to be paid under the contract. The amount of work completed at the time of the partial payment shall be shown by a certificate of the district engineer.

(c) Nothing in this section shall affect the provisions of this chapter providing for the construction of any improvements by the United States. (39th Legis., G.L., Ch. 5, Sec. 42.)

Subsec. (b), amended by Acts 1971, 62nd Leg., p. 1770, ch. 518, § 16, eff. May 31, 1971.

§ 62.117. Annual Report

(a) The commission shall make an annual report of its official acts and file it with the clerk of the commissioners court on or before January 1 of each year.

- (b) The report shall include in detail:
- (1) the kind, character, and amount of work done in the district;
 - (2) the cost of the work;
 - (3) the amount paid out on order and for what purpose paid; and
 - (4) other data necessary to show the condition of improvements made under the provisions of this chapter. (39th Legis., G.L., Ch. 5, Sec. 43.)

§ 62.118. Cooperation with United States

(a) If a river, creek, stream, bay, canal, or waterway to be improved is navigable or the proposed improvement is of a nature which requires the permission or consent of the United States, the commission may obtain the required permission or consent of the United States.

(b) Instead of or in addition to employing an engineer as provided in Section 62.076 of this code the commission may:

- (1) adopt any survey of a river, creek, canal, stream, bay, or waterway previously made by the United States;
- (2) arrange for surveys, examinations, and investigations of the proposed improvement; and
- (3) arrange for supervision of the work of improvement by the United States.

(c) The commission may cooperate and act with the United States in any and all matters relating to the construction and maintenance of canals and the improvement and navigation of navigable rivers, bays, creeks, streams, canals, and waterways.

(d) The authority to cooperate shall extend to surveys, work, or expenditures of money made or to be made either by the commission or by the United States.

(e) The United States may aid in all such matters, and the commission shall have authority to consent to the United States entering on and taking management and control of the work where necessary or permissible under the laws, regulations, and orders of the United States. (39th Legis., G.L., Ch. 5, Sec. 17, sen. 4.)

§ 62.119. Preference Lien; Waiver; Enforcement

(a) If a district leases, rents, furnishes, or supplies water to any person, association of persons, water improvement district, or corporation for the purpose of irrigation, the district shall have, without regard to contract, a preference lien superior to every other lien on the crop or crops raised on the land which is irrigated.

(b) If any district obtains a water supply under contract with the United States, the board of directors of the district may, by resolution entered in the minutes and with consent of the secretary of the interior, waive the preference lien, in whole or in part.

(c) For the enforcement of the lien provided in Subsection (a) of this section, all districts are entitled to all the rights and remedies prescribed by Title 84, Revised Civil Statutes of Texas, 1925, as amended, for the enforcement of the lien between landlord and tenant.

(d) The authority granted by this section shall be cumulative of, and in addition to, the authority granted by other laws. (39th Legis., G.L., Ch. 5, Sec. 51, 52, as added.)

§ 62.120. Contract for and Lease of Water System

(a) A district may enter into operating contracts and leases with cities and other governmental subdivisions for the operation of the portions of the district's water system which are designated by the board.

(b) To the extent that the proceeds of revenue bonds were used to acquire the portion leased, the annual payments paid by the lessee to the district shall be in a sum which is sufficient to permit the district to

pay the proportionate part of the principal, interest, reserves, and other requirements provided by the bond proceedings on any revenue bonds which were issued to acquire the leased properties.

(c) Bonds issued to acquire, improve, enlarge, or extend leased properties may mature serially or otherwise not more than 50 years from their date of issue.

Added by Acts 1971, 62nd Leg., p. 1625, ch. 452, § 2, eff. May 26, 1971.

Section 3 of the 1971 act provided: "If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

[Sections 62.121 to 62.150 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Section 62.151. Construction and Maintenance Fund

(a) The construction and maintenance fund shall include money received from the sale of bonds and all other sources except tax collections placed in the sinking fund to pay the principal of and the interest on bonds.

(b) After the original petition is filed, all expenses necessarily incurred in connection with the creation, establishment, and maintenance of the district shall be paid from the construction and maintenance fund. (39th Legis., G.L., Ch. 5, Sec. 26 (part).)

§ 62.152. Warrants

The commission may draw warrants:

- (1) to pay for legal services;
- (2) to pay the salary of the engineer, his assistant, and any other employees; and
- (3) to pay all expenses incident to operation of the district. (39th Legis., G.L., Ch. 5, Sec. 44 (part).)

§ 62.153. Duties of District Treasurer

The district treasurer shall:

- (1) open an account for all funds received by him for the district and all district funds which he pays out;
- (2) pay out money on vouchers signed by the chairman of the commission, any two members of the commission, or the commissioners court;
- (3) carefully preserve all orders for the payment of money; and
- (4) render a correct account to the commissioners court of all matters relating to the financial condition of the district as often as required by the commissioners court. (39th Legis., G.L., Ch. 5, Sec. 32, sen. 1 (part), 2.)

§ 62.154. Applicability of Sections 62.155-62.159

Sections 62.155-62.159 of this code apply to all revenue, income, money, funds, or increments except revenue derived from taxation which may result from the ownership and operation of the district's improvements and facilities. However, these sections do not apply to any of the following counties:

- (1) Matagorda;
- (2) Fort Bend;
- (3) Brazoria;
- (4) Chambers;
- (5) Galveston; and
- (6) Harris. (54th Legis., Ch. 238, Sec. 1; Sec. 2, sen. 2.)

§ 62.155. Deposit in Banking Corporation

(a) Instead of depositing the revenue of the district in the manner provided by law for districts, the commission may deposit the revenue in a banking corporation in the manner provided in Section 62.156 of this code.

(b) On selection of a banking corporation by the commission under Subsection (a) of this section, revenue of the district held by anyone other than the selected banking corporation, on order of the commission, shall be deposited in the selected banking corporation to the credit of the district. (54th Legis., Ch. 238, Sec. 2, sen. 1.)

§ 62.156. Selection of Depository

(a) The commission shall select a banking corporation which will secure the deposit of the revenue pursuant to the statutes relating to county depositories insofar as applicable. "Commissioners court" and "county judge" as used in the statutes relating to county depositories shall mean the commission and the commission chairman respectively.

(b) The commission may select the banking corporation to serve as the depository for a period of not more than two years from the day of selection, and at least 60 days before the end of the period, the commission shall determine whether to continue to deposit district revenue as provided in this section or to deposit the revenue as provided in the general laws relating to navigation districts.

(c) If the commission decides to deposit district revenue under the general laws relating to navigation districts, it, at any time in the future, may elect to select a depository in the manner provided in this section. (54th Legis., Ch. 238, Sec. 3, sen. 1, 2, 3.)

§ 62.157. Payment of District Revenue

Revenue of the district which is deposited with the banking corporation may be paid out according to the terms and conditions agreed to by the district and the banking corporation. (54th Legis., Ch. 238, Sec. 3, sen. 4.)

§ 62.158. Audit of Revenue

(a) The commission of a district which deposits its revenue with a banking corporation shall, not later than March 1 of each year, have an audit made of the revenue of the district on deposit with the banking corporation for all or part of the preceding calendar year.

(b) The audit shall be made by the county auditor of the county of jurisdiction or by an independent certified accountant or firm of independent certified public accountants employed by the commission.

(c) The cost of the audit shall be paid by the commission out of available revenues.

(d) The audit shall be retained at the main office of the commission of the district and shall be available for public inspection at all reasonable times. (54th Legis., Ch. 238, Sec. 4.)

§ 62.159. Conflicts with Prior Bonds or Other Laws

If Sections 62.154-62.158 of this code conflict with the provisions of any bonds issued by a district and secured in whole or in part by a pledge of revenue, with the proceedings authorizing the bonds, or with any special act relating to one specific district, the bonds, proceedings, and special act shall control over these sections. (54th Legis., Ch. 238, Sec. 5.)

§ 62.160. Maintenance Tax

The commissioners courts of the respective counties inside each district may levy and have assessed and collected for the maintenance, operation,

and upkeep of the district and the improvements constructed by the district an annual tax not to exceed 10 cents on the \$100 valuation on all property inside the district. (39th Legis., G.L., Ch. 5, Sec. 27 (part).)

[Sections 62.161 to 62.190 reserved for expansion]

SUBCHAPTER F. BOND PROVISIONS

Section 62.191. Issuance of Navigation Bonds

(a) After the commission determines the cost of proposed improvements, incidental expenses, and maintenance costs, it shall certify to the commissioners court of the county of jurisdiction the amount of bonds necessary to be issued.

(b) The commissioners court, at a regular or special meeting, shall issue an order directing the issuance of navigation bonds for the district in the amount so certified. The amount of bonds may not be more than the amount authorized by the election. (39th Legis., G.L., Ch. 5, Sec. 18, sen. 1.)

§ 62.192. Issuance of Additional Bonds

(a) If the proceeds of bonds issued by a district are insufficient to complete the proposed improvement or construction, if the commissioners decide to begin other and further construction or improvements, or if additional funds are required to maintain the improvements made, the commission shall certify to the commissioners court the necessity for an additional bond issue.

(b) Unless the amount previously authorized has been exhausted, the commissioners court shall issue the bonds.

(c) The certification to the court shall state:

- (1) the amount of bonds required;
- (2) the purpose of the bonds;
- (3) the rate of interest; and

(4) the length of time for which the bonds are to run. (39th Legis., G.L., Ch. 5, Sec. 18, sen. 2 (part).)

§ 62.193. Bond Election

(a) If the authorized amount of bonds is exhausted, the commissioners court shall order an election on the issuance of additional bonds to be held in the district at the earliest legal time.

(b) The ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds."

(c) Notice shall be given, the election conducted, and the returns canvassed in the manner provided for the original bond election in Subchapter B of this chapter. (39th Legis., G.L., Ch. 5, Sec. 18, sen. 2 (part), 3.)

§ 62.194. Order for Bonds and Tax

If on the canvass of the vote it is determined that a majority of the votes cast at the election were in favor of the issuance of bonds and levy of tax, the commissioners court shall issue an order directing the issuance of the bonds and the levy of a tax. (39th Legis., G.L., Ch. 5, Sec. 19.)

§ 62.195. Form of Bonds

(a) Bonds issued under the provisions of this chapter shall be issued in the name of the district, signed by the county judge of the county of jurisdiction, and attested by the county clerk of the county of jurisdiction

with the seal of the commissioners court of the county of jurisdiction affixed to them.

(b) The bonds shall be issued in the denominations and payable at the time or times, not more than 40 years from their date, which may be considered most expedient by the commissioners court. (39th Legis., G.L., Ch. 5, Sec. 20.)

§ 62.196. Duties of Attorney General

(a) Before the bonds are offered for sale, the district shall send to the attorney general:

- (1) a copy of the bonds to be issued;
- (2) a certified copy of the order of the commissioners court levying the tax;
- (3) a copy of the order of the commissioners court levying the tax to pay interest and provide a sinking fund;
- (4) a statement of the total bonded indebtedness of the district, including the series of bonds proposed and the assessed value of property for the purpose of taxation, as shown by the last official assessment by the county; and
- (5) other information which the attorney general may require.

(b) The attorney general shall carefully examine the bonds in connection with the facts, the constitution, and the laws on the execution of the bonds.

(c) If as the result of the examination the attorney general finds that the bonds were issued in conformity with the constitution and laws and that they are valid and binding obligations on the district, he shall officially certify the bonds. (39th Legis., G.L., Ch. 5, Sec. 21.)

§ 62.197. Registration of Bonds

After the bonds have been examined by the attorney general and his certificate issued, they shall be registered by the comptroller in a book to be kept for that purpose, and the certificate of the attorney general shall be preserved in the record for use in the event of litigation. (39th Legis., G.L., Ch. 5, Sec. 22, sen. 1.)

§ 62.198. Validity of Bonds

(a) After the bonds have been approved by the attorney general and registered by the comptroller, they shall be held in every action, suit, or proceeding in which their validity is or may be brought in question prima facie valid and binding obligations.

(b) In every action brought to enforce collection of bonds or interest on them, the certificate of the attorney general, or a duly certified copy of it, shall be admitted and received as prima facie evidence of the validity of the bonds and the coupons attached.

(c) The only defense that can be offered against the validity of the bonds or coupons is forgery or fraud. (39th Legis., G.L., Ch. 5, Sec. 22, sen. 2, 3.)

§ 62.199. Record of Bonds

(a) After bonds have been issued under the provisions of this chapter, the board shall procure and deliver to the treasurer of the county of jurisdiction a well-bound book in which a record shall be kept of all the bonds.

- (b) A record shall be kept in the book of:
- (1) the bond numbers and amount of the bonds;
 - (2) the rate of interest;

(3) the date of issuance and the date when the bonds are due and where payable;

(4) the proceeds from the bonds;

(5) the tax levy to pay interest on and to provide a sinking fund for bond payment; and

(6) any payment of a bond.

(c) The book shall at all times be open to the inspection of interested parties, either taxpayers, bondholders, or otherwise, in the district.

(d) The county treasurer shall receive for his services in recording these matters the same fees which are allowed by law to the county clerk for similar records. (39th Legis., G.L., Ch. 5, Sec. 23.)

§ 62.200. Sale of Bonds

(a) After the bonds have been registered, the chairman of the commission shall offer the bonds for sale and shall sell the bonds on the best terms and for the best price possible. None of the bonds shall be sold for less than face par value and accrued interest.

(b) After money is received from the sale of bonds, it shall be paid to the county treasurer and he shall place it to the credit of the district. (39th Legis., G.L., Ch. 5, Sec. 24.)

§ 62.201. Chairman's Bond

Before the chairman of the commission may sell any bonds, he shall execute a good and sufficient bond, payable to the county judge or his successors in office. The bond shall be approved by the commissioners court and shall be for an amount not less than the amount of the bonds issued, and shall be conditioned on the faithful discharge of his duties. (39th Legis., G.L., Ch. 5, Sec. 25.)

§ 62.202. Taxes; Sinking Fund Investment

(a) After district bonds have been voted, the commissioners court shall levy and have assessed and collected on all property in the district taxes sufficient in amount to pay the interest on the bonds and to annually deposit an amount in the sinking fund sufficient to discharge and redeem the bonds at their maturity.

(b) If advisable, the sinking fund shall from time to time be invested by the commissioners court in county, municipal, district, or other bonds which may be approved by the attorney general. (39th Legis., G.L., Ch. 5, Sec. 27 (part); Sec. 28.)

§ 62.203. Issuance of Refunding Bonds; Formalities

(a) A district which has outstanding bonds may, by order of the commissioners court of the county of jurisdiction and without submitting the proposition to an election, authorize and issue its refunding bonds for the purpose of retiring all or any part of its outstanding bonds.

(b) The refunding bonds may mature serially or otherwise in not more than 40 years from their date.

(c) The refunding bonds shall be executed in the name of the district by the county judge and county clerk under the seal of the commissioners court and shall in other respects have the details and be issued in the manner provided by the commissioners court in the order authorizing the bonds. (44th Legis., 1st C.S., Ch. 398, Sec. 1.)

§ 62.204. Refunding Bonds Sold at Par

The refunding bonds shall be sold by the commission at not less than their par value, delivered to the holders of not less than a like par amount of the bonds of the district authorized to be refunded in exchange for the prior bond obligations, or sold in part and exchanged in part. (44th Legis., 1st C.S., Ch. 398, Sec. 2.)

§ 62.205. Approval of Refunding Bonds by Attorney General

The refunding bonds shall be submitted to the attorney general for approval and shall be registered by the comptroller in the same manner and with the same effect as is now provided by law for the approval and registration of municipal bonds. (44th Legis., 1st C.S., Ch. 398, Sec. 3.)

§ 62.206. Tax Levy for Refunding Bonds

(a) If a district issues refunding bonds, the district shall annually levy taxes on all taxable property in the district sufficient to pay interest on the bonds as it becomes due and to pay the principal of the bonds at maturity.

(b) In making the annual levies, the district may take into consideration estimated delinquencies based on tax collection experience over the preceding years and levy the taxes in an amount, after deduction of estimated delinquencies, sufficient to pay principal and interest requirements and the cost of tax collection.

(c) In its discretion and so far as consistent with the rights of the holders of the bonds refunded, a district may pledge to the payment of the refunding bonds the proceeds of taxes levied for payment of the bonds refunded and delinquent at the time of the authorization of the refunding bonds, cash or securities in the sinking fund maintained for payment of the bonds refunded, or both. (44th Legis., 1st C.S., Ch. 398, Sec. 4.)

§ 62.207. Authority of Sections 62.203–62.206

Sections 62.203–62.206 of this code shall, without reference to other laws, constitute full authority for the issuance of refunding bonds. No proceedings, publications, elections, or referendums other than those required in Sections 62.203–62.206 shall be necessary to the authorization and issuance of refunding bonds. (44th Legis., 1st C.S., Ch. 398, Sec. 5.)

§ 62.208. Revenue Bonds

(a) A district may issue revenue bonds on the terms and under the provisions of Chapter 111, Acts of the 43rd Legislature, 1st Called Session, 1933, or Chapter 38, Acts of the 47th Legislature, Regular Session, 1941:

(1) to purchase, construct, improve, enlarge, extend, and repair dams, reservoirs, water rights, water wells, canals, pipelines, pumps, pump stations, land, easements, rights-of-way, and other property and facilities necessary to provide a water supply for the irrigation of land and for industrial, commercial, domestic, municipal, and other beneficial uses;

(2) to accomplish any of the purposes designated in the previously mentioned two acts; and

(3) for general improvement purposes without designating the improvement.

(b) If the bonds are issued for the purposes stated in Subsection (a) (1) of this section, the district may own and operate the facilities and sell and deliver water to any person. The properties and facilities, the uses for the water supply, and the purchasers of the water may be inside or outside the boundaries of the district but may not be inside the boundaries of any other previously created navigation district or flood control district.

(c) If the bonds are issued for general improvement purposes, the proceeds may be spent for any purpose designated in this section.

(d) As each installment of an authorized issue of bonds is prepared for delivery, the commission shall specify the particular purposes for which the proceeds of that installment will be spent.

(e) A district may enter into operating contracts and leases with responsible persons or corporations for the operation of those portions of the district's water distribution system which the commission may designate. In that case, the annual rentals to be paid to the district by the lessee shall be a sum sufficient to permit the district to meet its obligations for the payment of that proportionate part of any revenue bonds, including principal, interest, reserves, and other requirements provided in the bond proceedings, which were issued to acquire the leased properties. (39th Legis., G.L., Ch. 5, Sec. 48, as added.)

[Sections 62.209 to 62.250 reserved for expansion]

SUBCHAPTER G. TAX PROVISIONS

Section 62.251. Law Governing Assessment and Equalization of Taxes

Except as provided in this chapter, in all matters relating to the assessment of property for taxation in the district and the collection of taxes, the assessor and collector and the board of equalization of the county in which the district is located shall act and be governed by the laws of Texas for assessing and equalizing property and collecting taxes for state and county purposes. (39th Legis., G.L., Ch. 5, Sec. 29, sen. 2 (part); Sec. 30, sen. 2 (part).)

§ 62.252. Compensation of Assessor and Collector

The assessor and collector is entitled to receive for his services under this chapter the compensation the commission considers proper. However, the assessor and collector shall be allowed no more compensation for the collection of taxes for the district than is allowed for the collection of other taxes. (39th Legis., G.L., Ch. 5, Sec. 29, sen. 4; Sec. 30, sen. 1 (part).)

§ 62.253. Assessor and Collector's Bond

(a) The bond of the assessor and collector shall stand as security for the proper performance of his duties as the assessor and collector of the district.

(b) If necessary in the judgment of the commission, an additional bond, payable to the district, may be required.

(c) If the assessor and collector fails or refuses to give additional bond or security after being requested to do so by the commission and within the time prescribed by law for such purposes, he shall be suspended from office by the commissioners court of his county and immediately removed from office in the manner prescribed by law. (39th Legis., G.L., Ch. 5, Sec. 30, sen. 2 (part), 3.)

§ 62.254. Assessment of Property for Taxes

(a) The board shall provide all necessary books for the use of the assessor and collector and the clerk of the commissioners court of the county of jurisdiction.

(b) The assessor and collector of each county in the district, when ordered to do so by the commissioners court of the county of jurisdiction, shall assess all property within the district which is located in his county and list the property for taxation in the books or rolls furnished him for that purpose. He shall return the books or rolls at the same time he returns the other books or rolls of the state and county taxes for correction and approval to the commissioners court of his county.

(c) If the commissioners court of the county of jurisdiction finds the books or rolls correct, they shall approve them. (39th Legis., G.L., Ch. 5, Sec. 29, sen. 1, 2 (part).)

§ 62.255. Failure to Assess Taxes

If the assessor and collector fails or refuses to comply with the orders of the commissioners court requiring him to assess and list for taxation all the property in the district, he shall be suspended from the further discharge of his duties by the commissioners court of his county and shall be removed from office in the manner provided by law for the removal of county officers. (39th Legis., G.L., Ch. 5, Sec. 29, sen. 5.)

§ 62.256. Collection of Taxes

The assessor and collector of each county in a district is charged with the assessment roll of the part of the district in his county and shall collect all taxes levied and assessed against the property in the part of the district which is located in the county. He shall promptly pay the collections to the treasurer of the county of jurisdiction. (39th Legis., G.L., Ch. 5, Sec. 30, sen. 1 (part).)

§ 62.257. Taxes as Lien; Penalties

(a) All taxes authorized to be levied by this chapter shall be a lien upon the property upon which the taxes are assessed. The taxes shall mature and be paid at the time provided by the laws of this state for the payment of state and county taxes.

(b) All penalties provided by the laws of this state for the nonpayment of state and county taxes shall apply to all taxes authorized to be levied by this section. (39th Legis., G.L., Ch. 5, Sec. 29, sen. 3.)

§ 62.258. Tax Suits

A suit may be brought for the collection of the taxes and the enforcement of the tax liens created by this subchapter. (39th Legis., G.L., Ch. 5, Sec. 30, sen. 2 (part).)

§ 62.259. List of Delinquent Property

(a) The assessor and collector shall make a certified list of all delinquent property on which tax has not been paid and shall return the list to the commissioners court.

(b) The commissioners court shall collect the tax by the sale of the delinquent property in the same manner, both by suit and otherwise, as provided for the sale of property for the collection of state and county taxes.

(c) At the sale of any property for delinquent tax, the commission may purchase the property for the benefit of the district. (39th Legis., G.L., Ch. 5, Sec. 31.)

[Sections 62.260 to 62.290 reserved for expansion]

SUBCHAPTER H. ANNEXATION**Section 62.291. Annexation Authority**

A district created under this chapter or converted from a district created under Article III, Section 52, of the Texas Constitution, into a conservation and reclamation district under Article XVI, Section 59, of the Texas Constitution, may extend its boundaries and annex adjacent territory. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.292. Petition

Before territory is annexed to the district, a petition signed by 50 or a majority of the electors residing in the adjacent territory proposed to be annexed shall be presented to the commission, requesting an election in the adjacent territory to determine whether or not the territory will be

annexed and whether or not it will assume its pro rata part of the outstanding bonded debt of the district. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.293. Scheduling Petition for Hearing; Notice

(a) After a petition is presented under Section 62.292 of this code, the commission shall set the petition for a hearing to be held within 10 days from the date of presentation of the petition.

(b) Notice of the hearing shall be posted at three public places in the territory proposed to be annexed for at least five days before the hearing on the petition. The notice shall include the time and place of the hearing and the boundaries of the territory proposed to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.294. Hearing

The commission shall hold the hearing on the subject of annexation of adjacent territory by the district, and any person who has taxable property in the territory proposed to be annexed may appear in person or by counsel and offer testimony or argument for or against the inclusion of all or any part of the land proposed to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.295. Election Order

If after the hearing the commission finds that inclusion of the territory proposed to be annexed would be a direct benefit to all the land in that territory, the commission shall order an election to be held in the territory proposed to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.296. Notice of Election

(a) The election shall be held not less than 20 nor more than 30 days from the day of the election order and after notice is given.

(b) Notice of the election shall be published once a week for 20 days immediately preceding the election in some newspaper published in the territory proposed to be annexed. If no newspaper is published in the territory, notice shall be posted in three public places inside the territory for at least 20 days immediately preceding the election.

(c) The notice:

(1) shall give the time and place or places for holding the election;

(2) shall give the boundaries of the territory proposed to be annexed; and

(3) may contain the substance of the order of the commission ordering the election.

(d) The secretary of the commission shall have the notice published or posted. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.297. Ballots

The ballots for the election shall be printed to allow for voting for or against: "Annexation to the navigation district."; and "Assumption of a pro rata part of the bonded debt of the navigation district." (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 2.)

§ 62.298. Election Officials

The commission shall appoint one judge and two clerks for each election box or place to hold the election. The judge and clerks shall be electors in the territory proposed to be annexed and shall reside near the place for holding the election. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 3 (part).)

§ 62.299. Canvass of Vote; Entry of Order

(a) The election judges shall certify the election returns to the commission, and the commission shall canvass the returns.

(b) If a majority of the electors voting at the election favor annexation and assumption of the pro rata part of the bonded debt of the district, the commission shall enter an order in its minutes annexing the territory, and from and after the entry of the order, the annexed territory shall be a part of the district with all the rights, benefits, and burdens of property originally situated in the district.

(c) If a majority of the electors voting at the election favor annexation and the proposition to assume the bonded debt fails to carry, the commission shall enter an order in its minutes annexing the territory to the district, and from and after the entry of the order, the annexed territory shall be a part of the district with the exception of the assumption of the outstanding bonded indebtedness. The annexed territory shall be subject to a tax for maintenance and operation and shall be liable for all other bonded indebtedness and other indebtedness thereafter legally imposed by the district.

(d) After an order of annexation has been entered in the minutes of the commission, a certified copy of the order shall be prepared by the secretary of the commission and shall include the boundaries of the territory annexed. The secretary shall record the order or have it be recorded in the real estate records of the county or counties in which the territory is located. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 3 (part).)

§ 62.300. Authority to Annex Other Districts

Except as otherwise provided by this subchapter, a district created under Article XVI, Section 59, of the Texas Constitution may be annexed and become a part of another adjacent district created under the general law in the same manner as provided in Sections 62.292–62.299 of this code. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.301. Duties of Commission of Annexed District

If a district proposes to annex an adjacent district, the commission of the district proposed to be annexed shall:

- (1) conduct the hearing;
- (2) order the election;
- (3) canvass the returns of the election; and
- (4) perform the other duties and procedures provided in Sections

62.292–62.299 of this code. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.302. Certification of Election Results

If the election in a district proposed to be annexed results in a majority of the votes of the electors voting at the election favoring annexation, the commission of the district proposed to be annexed shall certify the election result together with the metes and bounds of the district to the commission of the annexing district. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.303. Hearing by Annexing District; Notice

(a) When the election result is certified to the commission of the annexing district, the commission of the annexing district shall conduct a hearing to determine whether or not it will be a benefit to the annexing district to annex the territory.

(b) The hearing shall be conducted after the commission has given five days' notice in some newspaper published in the annexing district.

(c) If it is found at the hearing that the annexation of the adjacent district would be a benefit to the territory of the annexing district, the commission shall enter an order in its minutes annexing the district and from and after the entry of the order, the adjacent district shall be a part of the annexing district with all rights and privileges of territory originally situated in the district. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.304. Assumption of Bonded Debt

(a) Unless a majority of the electors of each of the districts approves it, the annexing district and the district to be annexed may not assume the outstanding bonded debt of the other.

(b) Annexation shall in no way affect the outstanding debt or any other valid obligation of either the annexing district or the district to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.305. Levy of Taxes on Annexed District

The commission of the annexing district shall annually levy and collect sufficient taxes in the district to be annexed to discharge all valid outstanding obligations of the district to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.306. Dissolution of Annexed District

From and after the entry of the order annexing the district, the annexed district shall be dissolved. All powers previously vested in the annexed district and the commission of the annexed district shall be vested, respectively, in the annexing district and the commission of the annexing district. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.307. Annexation of Whole of Adjacent County

If the territory included inside the boundaries of the annexing district consists of all of a single county and the territory to be annexed consists of all an adjacent county, the adjacent territory may be annexed in the manner provided in Sections 62.291–62.306 of this code, except the commissioners court of the county to be annexed shall:

- (1) conduct the hearing;
- (2) order the election;
- (3) canvass the returns of the election; and
- (4) perform all other duties provided by this subchapter for the commission of the annexing district. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 1, as added.)

§ 62.308. Hearing

The commissioners court of the county to be annexed shall conduct the hearing at some place inside the county to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 2 (part), as added.)

§ 62.309. Order of Election; Ballots

The commissioners court of the county to be annexed may order an election, as requested in the petition for hearing, on either or both propositions included in the ballot form in Section 62.297 of this code. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 2 (part), as added.)

§ 62.310. Certification of Election Result

If the proposition or propositions carries by a majority of the vote of the electors voting at the election, the commissioners court of the county to be annexed shall certify the election result to the commission of the

annexing district. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 3 (part), as added.)

§ 62.311. Hearing by Annexing District

After the certification of the election result, and after five days' notice in some newspaper published inside the annexing district, the annexing district shall conduct a public hearing to determine whether or not it would be a benefit to the annexing district to annex the adjacent county. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 3 (part), as added.)

§ 62.312. Order of Annexation

If at the hearing it appears that annexation of the adjacent county would be a benefit to the annexing district, the commission shall enter an order in the minutes annexing the county. From and after the entry of the order, the county shall be a part of the annexing district with all rights and privileges of territory originally situated in the district and with the right of representation on the commission. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 3 (part), as added.)

§ 62.313. Obligations not Affected; Pro Rata Assumption

(a) Except as provided in Subsection (b) of this section, annexation shall in no way affect the bonded debt or any other valid outstanding obligation of the annexing district.

(b) If the voters at the annexation election in the county annexed vote to assume a pro rata part of the bonded debt of the annexing district, pro rata assumption shall be binding. If that proposition is not approved by a majority of those electors voting in the election, the persons and property within the county annexed shall never be bound to the payment of any debt of the annexing district outstanding at the time of annexation. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 3 (part), as added.)

§ 62.314. Additional Commission Members

(a) From and after the entry of the order of annexation, the commission shall be constituted as provided in this section.

(b) The commissioners court of the annexed county shall appoint two commissioners, both of whom shall be electors who reside in the district. The two commission members shall be additional members of the commission of the district and shall have the same duties and receive the same compensation as incumbent commission members.

(c) The additional commission members shall hold office for a term equal to and expiring with the terms of the incumbent commission members or, if the members of the commission are serving staggered terms, expiring with the term of the commission member whose term first expires.

(d) At the expiration of the terms of the additional commission members, the terms of all commission members shall be automatically terminated. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 3 (part), 4, 5, as added.)

§ 62.315. Change of Membership of Navigation Board

(a) After the annexation, the board shall be composed of the county judges and commissioners courts of the county of the annexing district and of the annexed county.

(b) Each individual member of the board shall be entitled to a vote and a majority in number of the individuals composing the board shall constitute a quorum. The action of a majority of the quorum shall control. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 10 (part), 11, 12, 13, as added.)

§ 62.316. Permanent Commission Organization Following Annexation

(a) After the expiration and termination of the terms of commission members as provided for in Section 62.314 of this code, the commission shall be organized as provided by this section.

(b) The commission shall be managed, governed, and controlled by five commission members.

(c) The commissioners courts of the county of the annexing district and of the annexed county shall each, by majority vote, appoint two commission members for a term of two years.

(d) At the expiration of the term of office of each commission member, the commissioners court which appointed that member shall, by majority vote, appoint a successor for a term of two years.

(e) The fifth commission member shall be chairman and shall serve for a term of two years. He shall be selected by a majority vote of the board of the district and appointed by the board.

(f) If any vacancy occurs through the death, resignation, or otherwise of any commission member, it shall be filled as in the first instance by appointment for the unexpired term. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 6, 7, 8, 9, 10, 18, as added.)

§ 62.317. Provisions Governing Commission

(a) Each commissioner appointed under Section 62.314 or 62.316 of this code shall be an elector of the district and shall serve his full term and until his successor is elected and has qualified unless sooner removed by the authority which appointed him for malfeasance or nonfeasance in office.

(b) Each commissioner shall execute a bond, take the oath, and have the powers and duties prescribed by the law applicable to the annexing district at the time of the annexation.

(c) Each commissioner is entitled to receive the compensation determined by the board.

(d) The commission, by majority vote, may execute all contracts and take all actions relating to governing the district. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 14, 15, 16, 17, as added.)

§ 62.318. Law Governing District

(a) The only changes made in the organization and operation of an annexing district which annexes an adjacent county are those contained in this subchapter.

(b) Each district annexing an adjacent county shall continue after the annexation to be governed by and subject to all of the laws applicable to the annexing district at the time of annexation. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 19, 20, as added.)

CHAPTER 63. SELF-LIQUIDATING NAVIGATION DISTRICTS

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**SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION OF DISTRICT**

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SUBCHAPTER A. GENERAL PROVISIONS

Section 63.001. Definitions

As used in this chapter:

- (1) "District" means a self-liquidating navigation district.
- (2) "Board" means the navigation board.
- (3) "Commission" means the board of navigation and canal commissioners.
- (4) "Commissioner" means a member of the commission. (New.)

[Sections 63.002 to 63.020 reserved for expansion]

**SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION OF DISTRICT**

Section 63.021. Self-Liquidating Districts

(a) All navigation districts organized under the provisions of Article XVI, Section 59, of the Texas Constitution, and the provisions of Chapter 62 of this code, or organized under any local and special law enacted under the provisions of Article XVI, Section 59, of the Texas Constitution, which have voted bonds but have not issued or disposed of the bonds, and all districts organized under the provisions of this chapter are self-liquidating in character and may be made self-supporting and return the construction cost of the district within a reasonable period by tolls, rents, fees, assessments, or other charges other than taxation.

(b) The district shall be considered as coming originally within the scope of this chapter, and the proceedings in Sections 63.039–63.044 of this code are not required as a prerequisite to the exercise of the rights, powers, privileges, and benefits of this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 1, as amended.)

§ 63.022. Creation

A district of the character provided in Section 63.021 of this code may be created as provided in this chapter to operate under the provisions of Article XVI, Section 59, of the Texas Constitution. (42nd Legis., 3rd C.S., Ch. 27, Sec. 2, sen. 1 (part).)

§ 63.023. Area Included in District

A district may include all or part of a village, town, city, road district, drainage district, irrigation district, levee district, other improvement district, conservation and reclamation district, or municipal corporation, but may not include more than all or parts of two counties. (42nd Legis., 3rd C.S., Ch. 27, Sec. 2, sen. 1 (part), 2 (part).)

§ 63.024. Petition to Create Single-County District

(a) To create a district located wholly in one county, a petition signed by 25 of the electors, or if there are fewer than 75 electors in the pro-

posed district, by one-third of them, shall be presented at any regular or special session of the commissioners court of the county in which the land to be included in the district is located.

(b) The petition shall include:

- (1) a request for the establishment of a district;
- (2) a description of the boundaries of the proposed district, accompanied by a map;
- (3) a statement of the general nature of the improvements proposed;
- (4) an estimate of the probable cost; and
- (5) the designation of a name for the district which shall include the name of the county.

(c) A deposit of \$500 and an affidavit stating the qualifications of the petitioners shall accompany the petition. (42nd Legis., 3rd C.S., Ch. 27, Sec. 3, sen. 1 (part).)

§ 63.025. Petition to Create District in Two Counties

(a) If the proposed district is located in two counties, a petition of the nature provided in Section 63.024 shall be presented to the commissioners court of the county which includes the greater part of the district, and this county shall be the county of jurisdiction with relation to all matters concerning the district.

(b) The petition shall be signed by 25 residents in the territory of each county to be included in the proposed district or if there are fewer than 75 residents in the territory of either of the counties, then by one-third of the residents and shall be accompanied by a deposit of \$500.

(c) The name of the district shall include the name of the county which has jurisdiction. (42nd Legis., 3rd C.S., Ch. 27, Sec. 3, sen. 1 (part).)

§ 63.026. Navigation Board

(a) The navigation board shall include the county judge and the members of the commissioners court and the mayor and the aldermen or commissioners of the city or cities. (42nd Legis., 3rd C.S., Ch. 27, Sec. 4, sen. 1 (part).)

(b) A majority in number of the persons composing the board shall constitute a quorum, and the action of a majority of the quorum shall control. (42nd Legis., 3rd C.S., Ch. 27, Sec. 4, sen. 3.)

(c) The board shall pass on the petition to create the district and the election to approve creation of the district with each individual member having one vote. (42nd Legis., 3rd C.S., Ch. 27, Sec. 4, sen. 2.)

(d) The duties and powers of the county judge and members of the commissioners court, the mayor and aldermen or commissioners of cities, and the county clerk and other officers are a part of the legal duties of the officials which they shall perform without additional compensation, unless otherwise provided in this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 7.)

§ 63.027. Hearing

At the same session the petition is presented, the commissioners court shall order a hearing to be held at a regular or special session of the commissioners court, not less than 60 days from the date the petition is presented. (42nd Legis., 3rd C.S., Ch. 27, Sec. 3, sen. 1 (part).)

§ 63.028. Notice of Hearing

(a) The commissioners court shall order the clerk to give notice of the date and place of the hearing by posting a copy of the petition and the

order of the commissioners court at the courthouse door and at four other public places inside the boundaries of the proposed district.

(b) If the district is composed of more than one county, the notices provided in Subsection (a) of this section shall be posted in each county.

(c) The notices shall be posted not less than 20 days immediately preceding the day set for the hearing.

(d) The clerk is entitled to receive \$1 for each notice he posts and five cents a mile for each mile necessarily traveled to post the notices. (42nd Legis., 3rd C.S., Ch. 27, Sec. 3, sen. 1 (part), 2.)

§ 63.029. Hearing by Navigation Board

(a) If the proposed district includes all or part of a city acting under special charter granted by the legislature, the hearing shall be held before the board at the regular meeting place of the commissioners court.

(b) The commissioners court shall order a hearing before the board not less than 30 nor more than 60 days from the day the petition is presented without reference to any term of the court, and notice of the hearing shall be given as provided in Section 63.028.

(c) The county clerk shall record the proceedings of the board in the book kept for that purpose, and this record shall be available for public inspection. (42nd Legis., 3rd C.S., Ch. 27, Sec. 4, sen. 1 (part); Sec. 5, 6.)

§ 63.030. Conduct of Hearing

(a) The commissioners court or the board has exclusive jurisdiction to hear and determine all contests and objections to the creation of the proposed district and all matters relating to the creation of the proposed district.

(b) The commissioners court or the board may adjourn the hearing from day to day, and all judgments or decisions shall be final unless otherwise provided in this chapter.

(c) Any person who has taxable property in the proposed district or who might be affected by creation of the district may appear at the hearing and support or oppose creation of the proposed district and may offer testimony relating to:

(1) the necessity and feasibility of the proposed district;

(2) the benefits to accrue from formation of the proposed district;

(3) the boundaries of the proposed district; or

(4) any other matter concerning the proposed district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 8.)

§ 63.031. Findings

(a) If it appears at the hearing that the proposed improvements are feasible and practicable and would be a public benefit and utility, the commissioners court or the board shall make these findings and approve the boundaries stated in the petition, or if it does not approve the boundaries in the petition, the court or board shall define the boundaries of the district which are approved.

(b) Changes may not be made in the proposed boundaries until notice is given and a hearing held in the manner provided in this subchapter.

(c) If the commissioners court or board finds 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 the district is unnecessary, the court or board shall make these findings and dismiss the petition at the cost of petitioners. Dismissal of the petition shall not prevent presentation of another petition at a later date.

(d) The commissioners court or the board shall enter all findings in its records or minutes, together with a map of the district if the boundaries

in the petition are changed. (42nd Legis., 3rd C.S., Ch. 27, Sec. 9, sen. 1 (part), 2 (part), 3, 4.)

§ 63.032. Providing Funds for Proposed Improvements

(a) If the commissioners court or the board approves the boundaries in the petition or as changed and decides to grant the petition, it shall determine the amount of money necessary for the improvements and all expenses connected with the improvements and whether to issue bonds for the full amount or, in the first instance, for a less amount.

(b) The commissioners court or the board shall specify the amount of bonds to be issued, the maximum term for which the bonds will run, and the rate of interest. (42nd Legis., 3rd C.S., Ch. 27, Sec. 9, sen. 1 (part), 2 (part).)

§ 63.033. Election Order

(a) If the commissioners court or the board finds in favor of the creation of the district, the commissioners court of the county of jurisdiction shall order an election and submit to the electors residing in the district the proposition of whether or not the district shall be created and whether or not the bonds shall be issued and a tax levied sufficient to pay the interest and provide a sinking fund to redeem the bonds at maturity.

(b) The election order shall specify the amount of the bonds to be issued, the term for which the bonds will run, and the rate of interest. (42nd Legis., 3rd C.S., Ch. 27, Sec. 10, sen. 1.)

§ 63.034. Notice of Election

(a) The clerk of the court of jurisdiction shall give notice of the election by posting notices at the courthouse door of the county in which the district is located and at four other public places in the proposed district.

(b) If the district is composed of more than one county, the notices shall be posted in each county.

(c) The notices shall be posted for 30 days immediately preceding the time set for the election. (42nd Legis., 3rd C.S., Ch. 27, Sec. 11, sen. 1 (part).)

(d) The notices shall include:

(1) the time and place of the election;

(2) the proposition to be voted on;

(3) the purpose for which the bonds are to be issued;

(4) the amount of the bonds; and

(5) a copy of the election order. (42nd Legis., 3rd C.S., Ch. 27, Sec. 11, sen. 1 (part), 2.)

§ 63.035. Ballots

The ballots for the election shall be printed to provide for voting for or against: "The navigation district and the issuance of bonds and the levy of a tax to pay for the bonds." (42nd Legis., 3rd C.S., Ch. 27, Sec. 10, sen. 2 (part); Sec. 12, sen. 4.)

§ 63.036. Conduct of Election

The commissioners court shall create and define, by order, the voting precincts in the district and shall name convenient polling places in the precincts. It shall appoint the judges and other necessary election officials and shall hold the election at the earliest legal time. (42nd Legis., 3rd C.S., Ch. 27, Sec. 10, sen. 2 (part); Sec. 12, sen. 3 (part).)

§ 63.037. Returns of Election

(a) Immediately after the election, the officers holding the election shall make returns of the result to the commissioners court of jurisdiction and return the ballot boxes to the clerk of the court.

(b) The clerk shall keep the ballot boxes safely and deliver them, together with the returns of the election, to the commissioners court at its next regular or special session. (42nd Legis., 3rd C.S., Ch. 27, Sec. 13, sen. 1 (part).)

§ 63.038. Declaration of Result

The court shall canvass the vote and return at the session when it receives the ballot boxes and returns of the election. If it finds that a majority of those voting at the election voted in favor of the proposition, the court shall declare the result of the election to be in favor of the district, issuance of the bonds, and the levy of the tax, and shall enter the following declaration in its minutes:

“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 electors 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 \$100, 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).” (42nd Legis., 3rd C.S., Ch. 27, Sec. 13, sen. 1 (part), 2.)

§ 63.039. Conversion of District

Any navigation district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, or Article III, Section 52, of the Texas Constitution, and not originally within the scope of this chapter, may be converted into a self-liquidating district operating under this chapter in the manner provided in Sections 63.040–63.044 of this code. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 1 (part).)

§ 63.040. Resolution to Convert

(a) The commission, by resolution entered in the minutes, shall declare that in its judgment it is for the best interest of the district and will benefit the land and property in the district to operate under the provisions of this chapter, permitting the district to become self-liquidating and to return the construction cost within a reasonable period by means of tolls, rents, fees, assessments, or other charges other than taxation.

(b) The commission shall designate in the resolution the sections of this chapter under which the district wishes to operate. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 1 (part), 2 (part).)

§ 63.041. Notice

(a) Notice of the adoption of a resolution under Section 63.040 of this code shall be given by publishing the resolution in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks with the first publication not less than 14 full days before the day set for a hearing.

(c) The notice shall:

(1) state the time and place of the hearing;

(2) set out the resolution in full; and

(3) notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 2 (part), 3, 4.)

§ 63.042. Hearing

The hearing may be adjourned from day to day until all interested persons have had an opportunity to appear and present testimony. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 5.)

§ 63.043. Findings

(a) If at the hearing the commission finds that conversion of the district into a district operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, it shall enter an order making this finding.

(b) If the commission finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, it shall enter an order against conversion of the district into one operating under this chapter.

(c) The adverse findings of the commission shall be final and not subject to appeal or review. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 6, 7, 8 (part).)

§ 63.044. Effect of Conversion

If the finding of the commission is favorable to the resolution, the commission shall have the same right, power, and authority to act under the provisions of this chapter adopted by the resolution as if the district had originally come within the scope of this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 8 (part).)

[Sections 63.045 to 63.080 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**Section 63.081. Appointment of Commissioners**

After a district is created, the commissioners court shall appoint three navigation and canal commissioners, whose duties are provided in this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 14, sen. 1 (part).)

§ 63.082. Qualifications

To be qualified for appointment as a commissioner, a person must be a resident of the district, a freehold property taxpayer, and a qualified elector of the county. (42nd Legis., 3rd C.S., Ch. 27, Sec. 14, sen. 1 (part).)

§ 63.083. Vacancies

All vacancies in the office of appointed commissioner occurring through death, resignation, or otherwise shall be filled by the remaining commissioners or, if only one commissioner remains, by the remaining

commissioner and the district judge residing in the county in which a majority of the acreage of the district is located. (42nd Legis., 3rd C.S., Ch. 27, Sec. 14, sen. 3.)

§ 63.084. Oath

In addition to the constitutional oath provided for county commissioners, before beginning to perform his duties each appointed commissioner shall take and subscribe before the county judge of the county of jurisdiction an oath to discharge faithfully the duties of his office without favor or partiality. (42nd Legis., 3rd C.S., Ch. 27, Sec. 15.)

§ 63.085. Bond

Before beginning to perform his duties, each appointed commissioner shall execute a good and sufficient bond for \$1,000, payable to the county judge of the county of jurisdiction for the use and benefit of the district, conditioned on the faithful performance of his duties. (42nd Legis., 3rd C.S., Ch. 27, Sec. 16.)

§ 63.086. Term of Office

Each commissioner shall hold office for two years and until his successor has qualified after appointment or election. (42nd Legis., 3rd C.S., Ch. 27, Sec. 14, sen. 2; Sec. 18 (part).)

§ 63.087. Optional Term of Office

(a) The commission may provide by resolution for six-year staggered terms of office for commissioners with the term of one commissioner expiring every two years.

(b) At the first election of commissioners after a resolution is adopted under this section, three commissioners shall be elected. After the commissioners have taken the oath of office and executed bonds, they shall draw lots to determine who will serve for a two-year term, who will serve for a four-year term, and who will serve for a six-year term.

(c) Successors to the commissioners elected under the provisions of Subsection (b) of this section shall serve for full six-year terms. (42nd Legis., 3rd C.S., Ch. 27, Sec. 18-a, as amended.)

§ 63.088. Commission Organization and Quorum

The commission shall organize by electing one of their members chairman and one secretary. Two of the commissioners shall constitute a quorum and a concurrence of two shall be sufficient in all matters relating to the business of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 17.)

§ 63.089. Election of Commissioners

An election shall be held in the district on the first Tuesday after the first Monday in November, 1972, and on the first Tuesday after the first Monday in November after 1972, to elect three commissioners.

((S. B. No. 680)) (42nd Legis., 3rd C.S., Ch. 27, Sec. 89.)

Amended by Acts 1971, 62nd Leg., p. 1984, ch. 612, Art. 1, § 9, eff. Sept. 1, 1971.

§ 63.090. Placing Names of Candidates on Ballot

A candidate for commissioner must apply to the secretary at least 20 days before the day of the election to have his name printed on the ballot. Also, a candidate's name may be placed on the ballot by petition of 20 or more qualified electors of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 89.)

§ 63.091. Polling Place

The commission shall designate the polling place or places in the election order. If more than one polling place is required, the board shall divide the district into election precincts, which may be changed from time to time. (42nd Legis., 3rd C.S., Ch. 27, Sec. 19, sen. 1 (part), 3 (part).)

§ 63.092. Election Officers

The commission shall appoint the election officers, consisting of one presiding judge, an assistant judge, and two clerks, when the election is ordered. Additional clerks may be appointed by the presiding judge when necessary. (42nd Legis., 3rd C.S., Ch. 27, Sec. 19, sen. 1 (part), 2, 3 (part).)

§ 63.093. Notice of Election

(a) The notice of the election shall be signed by the president and secretary of the commission and shall contain a copy of the election order.

(b) The notice shall be published once a week for three consecutive weeks in a newspaper published in the district or, if a newspaper is not published in the district, in a newspaper located nearest to the boundaries of the district. The first publication shall be made not less than 21 days nor more than 35 days before the day of the election. (42nd Legis., 3rd C.S., Ch. 27, Sec. 20.)

§ 63.094. Conduct of Election

(a) The election officers shall make and deliver the returns in triplicate. One copy shall be retained by the presiding judge, one shall be delivered to the chairman of the commission, and one shall be delivered to the secretary.

(b) The ballot boxes and other election records and supplies shall be delivered to the secretary at the office of the district. All boxes containing voted or mutilated ballots shall be preserved for six months, subject to the order of any court in which an election contest is filed. The ballot boxes shall be destroyed after six months unless a contrary order is entered by a court of competent jurisdiction.

(c) The commission shall meet and canvass the returns of the election not less than five full days nor more than seven days after the election. If the returns cannot be canvassed within seven days, they shall be canvassed as soon as possible after seven days. (42nd Legis., 3rd C.S., Ch. 27, Sec. 21.)

§ 63.095. Vacancies on Commission

(a) A vacancy in the office of elected commissioner shall be filled by appointment by the commission itself for the unexpired term.

(b) If two vacancies occur at the same time, the remaining commissioner shall call a special election to fill the vacancies.

(c) If the remaining commissioner fails to call a special election within 15 days after the vacancies occur, or if the third place is vacant also, the judge of the district court of the judicial district in which the district is located may order the election on the petition of any voter or creditor of the district. The district judge shall fix the date of the election, order the publication of notice of the election by the county clerk, and name the officers to hold the election. The returns of an election held by order of the district judge shall be made and filed in the office of the clerk of the district court, and the clerk shall declare the result of the election. (42nd Legis., 3rd C.S., Ch. 27, Sec. 22.)

§ 63.096. Commissioner's Oath

Each commissioner shall subscribe an oath of office containing the applicable conditions provided by law for members of the commissioners court. (42nd Legis., 3rd C.S., Ch. 27, Sec. 23, sen. 1 (part).)

§ 63.097. Commissioner's Bond

(a) Each commissioner shall execute a good and sufficient bond for \$10,000, payable to the district, conditioned on the faithful performance of his duties.

(b) The commissioner's bond shall be approved by the commission and by the district judge of the district court which has jurisdiction over the territory of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 23, sen. 1 (part), 2 (part).)

§ 63.098. Commissioner's Compensation

(a) Each commissioner shall receive a fee of not more than \$20 a day for each day of service necessary to the discharge of his duties, unless otherwise provided. ((S. B. No. 680))

(b) The commission may provide by an order entered in its minutes that compensation shall not be paid for the commissioners' services for a period of two years from the date of the order. (42nd Legis., 3rd C.S., Ch. 27, Sec. 25.)

Subsec. (a) amended by Acts 1971, 62nd Leg., p. 1984, ch. 612, Art. 1, § 10, eff. Sept. 1, 1971.

§ 63.099. District Manager

(a) The commission 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 commission.

(b) The commission shall fix the term of office and compensation of the manager. (42nd Legis., 3rd C.S., Ch. 27, Sec. 27, sen. 1, 2 (part).)

§ 63.100. District Assessor and Collector

The commission shall appoint one person to the office of assessor and collector for the district. The assessor and collector shall be a qualified elector and a resident of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 28, sen. 1 (part), 3.)

§ 63.101. Deputy Assessor and Collector

The commission may appoint one or more deputies to assist the assessor and collector for a period of not more than one year. (42nd Legis., 3rd C.S., Ch. 27, Sec. 28, sen. 4 (part).)

§ 63.102. Assessor and Collector's Bond

(a) The assessor and collector shall execute a good and sufficient bond with at least two sureties, or a surety company having a permit to do business in the state, conditioned on the faithful performance of his duties and on paying to the depository all funds or other things of value coming into his hands as assessor and collector.

(b) The commission shall approve the bond and shall fix the sum, which shall not be less than twice the average daily balance of the district in its depository for the preceding year nor more than the estimated amount of revenue of the district for any one year.

(c) The commission may require additional bonds or a bond in a larger amount or additional security any time it considers it advisable. (42nd Legis., 3rd C.S., Ch. 27, Sec. 28, sen. 1 (part), 2.)

§ 63.103. Deputy's Bond

The assistant or assistants to the assessor and collector appointed by the commission may or may not be required to furnish bond with conditions similar to those required of the assessor and collector. (42nd Legis., 3rd C.S., Ch. 27, Sec. 28, sen. 4 (part).)

§ 63.104. Compensation of Assessor and Collector and Deputy

The commission shall fix the compensation to be paid to the tax assessor and collector or any deputy. (42nd Legis., 3rd C.S., Ch. 27, Sec. 28, sen. 5.)

§ 63.105. Engineer

The commission may employ a competent engineer whose term of office and compensation shall be determined by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 36, sen. 1.)

§ 63.106. Legal Counsel

The commission may employ an attorney to represent the district in preparation of any contract, to conduct any proceeding in or out of court, to be the legal advisor of the commission, and to perform any other function considered necessary. The attorney shall be retained on the terms and for the fees which the commission determines and on which the parties agree. (42nd Legis., 3rd C.S., Ch. 27, Sec. 35, sen. 1 (part); Sec. 73 (part).)

§ 63.107. District Employees

(a) The commission may employ assistant engineers and other persons as it considers necessary for the construction, maintenance, operation, and development of the district, its business and facilities, and shall determine their term of office and duties, and fix their compensation.

(b) All employees may be removed by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 27, sen. 2 (part); Sec. 73 (part); Sec. 80.)

§ 63.108. Bonds of Officers and Employees

(a) Each officer and employee charged with the handling of funds or property of the district shall furnish a good and sufficient bond for a sum sufficient to safeguard the district as determined by the commission. The bond shall be payable to the district and conditioned on the faithful performance of his duties and his accounting of all funds and property of the district coming into his hands.

(b) The bonds of other officers of the district shall be approved by the commission and shall be filed for record in the office of the district. The bonds shall be recorded in a book kept for that purpose in the office of the district, and the book shall be open to the inspection of the public during the office hours of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 23, sen. 2 (part); Sec. 24.)

§ 63.109. Payment of Compensation and Expenses

The commission may draw warrants to pay for legal services, for the salaries of the engineer, his assistant, or any other employees, and for all expenses incident and relating to the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 73 (part).)

§ 63.110. District Office

A regular office shall be maintained for the conduct of the business of the district at a place in the district designated by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 26, sen. 2.)

§ 63.111. District Records

The commission shall keep a true account of its meetings and proceedings and shall preserve its minutes, contracts, notices, accounts, receipts, and records in a fireproof vault or safe. (42nd Legis., 3rd C.S., Ch. 27, Sec. 26, sen. 1.)

§ 63.112. Court Actions

(a) A district established under this chapter may sue and be sued, by and through its commission, in any court in this state in the name of the district.

(b) The courts of this state shall take judicial notice of the establishment of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 75.)

[Sections 63.113 to 63.150 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**Section 63.151. Authority of District**

All districts created under this chapter are essential to the accomplishment of the provisions of Article XVI, Section 59, of the Texas Constitution, and are governmental agencies and bodies politic and corporate, with the powers of government and authority to exercise the rights, privileges, and functions conferred in this chapter and by the Texas Constitution. (42nd Legis., 3rd C.S., Ch. 27, Sec. 2, sen. 2 (part); Sec. 90.)

§ 63.152. Purposes of District

The district may make improvements for:

- (1) the navigation of inland and coastal water;
- (2) the preservation and conservation of inland and coastal water for navigation;
- (3) the control and distribution of storm water and floodwater of rivers and streams in aid of navigation; or
- (4) any purpose stated in Article XVI, Section 59, of the Texas Constitution, necessary or incidental to the navigation of inland and coastal water. (42nd Legis., 3rd C.S., Ch. 27, Sec. 2, sen. 2 (part).)

§ 63.153. General Authority of District

A district may:

- (1) exercise all the rights, powers, and authority granted by this chapter and by the general and special laws relating to navigation districts;
- (2) exercise all powers relating to regulation of wharfage and facilities connected with waterways and ports inside the district to the fullest extent consistent with the Texas Constitution;
- (3) acquire, purchase, own, construct, enlarge, extend, repair, maintain, operate, develop, and regulate land, waterways, improvements, facilities, or aids incident to or necessary in the proper operation and development of ports and waterways in the district, including wharves, docks, warehouses, commercial and industrial buildings, grain elevators, bunkering facilities, belt railroads, floating plants and facilities, lightering facilities, towing facilities, and all appurtenances;
- (4) hire, rent, convey, lease, and otherwise make available to any person the improvements of the district;
- (5) assess and collect charges for use of all facilities acquired or constructed in accordance with this chapter and apply the amounts collected for maintenance and operation of the business of the dis-

trict, to make the district self-supporting and financially solvent, and to retire the construction cost of the improvements within a reasonable period;

(6) enter into valid and binding contracts to apply revenues, over and above the maintenance and operation costs, which are derived from sources other than taxation, to pay principal and interest on bonds;

(7) enter into contracts with the United States for loans and grants on terms and conditions necessary to comply with regulations and requirements of the United States under federal law; and

(8) issue bonds, notes, warrants, certificates of indebtedness, and other forms of obligation payable from revenues derived from improvements and pledge these revenues to the payment of the district's debts in the manner provided in Subchapter E of Chapter 60 of this code. (42nd Legis., 3rd C.S., Ch. 27, Sec. 41, 77 (part), as amended.)

§ 63.154. Authority to Go on Land

The commission and the district engineer, together with all necessary teams, help, tools, instruments, implements, and machinery, may go on any land inside the district to examine the land and make plans, surveys, maps, and profiles without subjecting themselves to action for trespass. (42nd Legis., 3rd C.S., Ch. 27, Sec. 65.)

§ 63.155. Acquisition of Property and Right-of-Way

The commission may acquire by gift, purchase, or condemnation proceedings the necessary right-of-way and property of any kind necessary for improvements contemplated by this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 64.)

§ 63.156. Eminent Domain

(a) The district may exercise the power of eminent domain to condemn and acquire the right-of-way over and through any public or private land necessary to improve any river, bay, creek, or arm of the Gulf of Mexico for the construction and maintenance of any canal or waterway and for any other purpose authorized by this chapter.

(b) The condemnation proceedings shall be instituted under the direction of the commission and in the name of the district, and the damages shall be assessed in conformity with the laws for condemning and acquiring rights-of-way by railroads.

(c) No appeal from the finding and assessment of damages shall have the effect of suspending work by the commission in prosecuting the work of improvement in detail.

(d) No right-of-way can be condemned through any part of an incorporated city or town without the consent of the lawful authorities of the city or town. (42nd Legis., 3rd C.S., Ch. 27, Sec. 63.)

§ 63.157. Authority over Improvements

A district may acquire, purchase, take over, construct, maintain, operate, develop, and regulate wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, literage,¹ lands, towing facilities, and all other facilities or aids incident to or necessary to the operation or development of ports or waterways inside the district extending to the Gulf of Mexico. (42nd Legis., 3rd C.S., Ch. 27, Sec. 76.)

¹ So in enrolled bill.

§ 63.158. Obtaining Consent of United States

If a river, creek, bay, stream, canal, or waterway which is to be improved is navigable or if the improvements are of a type which require

the permission or consent of the United States, the commission may obtain the permission or consent of the United States. (42nd Legis., 3rd C.S., Ch. 27, Sec. 36, sen. 2 (part).)

§ 63.159. Cooperation With the United States

(a) The commission may cooperate and act with the United States in surveys, work, and expenditure of money in any matters relating to construction and maintenance of the canals and the improvement and navigation of navigable rivers, bays, creeks, streams, canals, and waterways.

(b) To the extent that the United States aids in these matters, the commission may agree and consent to the United States entering and taking management and control of the work insofar as necessary or permissible under the laws and regulations of the United States. (42nd Legis., 3rd C.S., Ch. 27, Sec. 36, sen. 2 (part).)

§ 63.160. Duties of Engineer

The engineer shall:

- (1) make necessary surveys, examinations, investigations, maps, plans, and drawings relating to proposed improvements;
- (2) estimate the cost of improvements;
- (3) supervise the work of improvements; and
- (4) perform any duties which might be required by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 36, sen. 2 (part).)

§ 63.161. United States Performing Duties of Engineer

Instead of or in addition to employing an engineer, the commission may adopt any survey of a river, creek, canal, stream, bay, or waterway previously made by the United States and may arrange for surveys, examinations, and investigations of proposed improvements and for supervision of the work of improvement by the United States. (42nd Legis., 3rd C.S., Ch. 27, Sec. 36, sen. 2 (part).)

§ 63.162. District Order for Improvements

If the commission considers it in the best interest for the district to exercise the powers granted by Section 63.153 of this code or if the commission finds that additional improvements to those originally planned or constructed are necessary for navigation of or in aid of navigation of any river, creek, stream, bay, canal, or waterway, the commission shall make this finding in an order entered in the minutes and shall direct the engineer to make an estimate showing the character and cost of the improvements. (42nd Legis., 3rd C.S., Ch. 27, Sec. 42.)

§ 63.163. Notice of Hearing

(a) After the commission's order is entered in the minutes, the commission shall publish notice once a week for three consecutive weeks in a newspaper published in the district. If no newspaper is published in the district, the notice shall be published in the newspaper published nearest to the district.

(b) The notice shall include a copy of the commission's order and shall designate a time and place for a hearing. (42nd Legis., 3rd C.S., Ch. 27, Sec. 43, sen. 1 (part).)

§ 63.164. Hearing on Improvements

(a) The commission shall hear evidence at the hearing, and any district taxpayer or interested person may present evidence.

(b) The commission may adjourn the hearing from day to day for a reasonable time so that all taxpayers and interested persons may be heard. (42nd Legis., 3rd C.S., Ch. 27, Sec. 43, sen. 1 (part).)

§ 63.165. Findings

(a) After the hearing is completed, the commission shall enter its order making findings as to whether or not the improvements and construction of the facilities is feasible and practicable and whether or not benefits will result to the public.

(b) If the findings are against the proposed improvements, no further action will be taken, but if the commission finds that the improvements are feasible and practicable and would be a public benefit, the district may issue bonds to pay for the necessary improvements and facilities. (42nd Legis., 3rd C.S., Ch. 27, Sec. 43, sen. 2 (part).)

§ 63.166. Bond Election

(a) An election shall be held to approve the issuance of the bonds.

(b) The ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds."

(c) The returns of the election shall be canvassed as provided in this chapter.

(d) If the canvass indicates that a majority of the electors voted in favor of the proposition, the commission shall issue an order directing the issuance of the bonds and the levy of a tax. (42nd Legis., 3rd C.S., Ch. 27, Sec. 43, sen. 2 (part), 3; Sec. 44; Sec. 45 (part).)

§ 63.167. Form of Bonds

(a) The bonds shall be issued in the manner that other bonds are issued under this chapter, and the amount of the bonds may not be more than the cost of the improvements estimated by the engineer.

(b) The bonds shall be issued in the name of the district and shall be signed by the president of the commission and attested by the secretary with the seal of the district attached.

(c) The bonds shall be issued in the denominations and payable at the times, not more than 40 years, considered most expedient by the board. Interest shall be payable annually or semiannually. (42nd Legis., 3rd C.S., Ch. 27, Sec. 43, sen. 2 (part); Sec. 45 (part).)

§ 63.168. Bids for Contract

(a) Before the commission enters into a contract requiring the expenditure of \$2,000 or more, it shall submit the proposed contract for competitive bids.

(b) The commission may reject any and all bids, and if the contract is for a public improvement, the successful bidder shall be required to give the statutory bonds required by Article 5160, Revised Civil Statutes of Texas, 1925.

(c) The contract shall be awarded to the lowest and best bidder. (42nd Legis., 3rd C.S., Ch. 27, Sec. 66, sen. 1, 2 (part), 3, as amended.)

§ 63.169. Notice of Bids

(a) Notice of the time and place the contract will be awarded shall be published in one or more newspapers with general circulation in the state, one of which shall be a newspaper published in the county in which the district is located if a newspaper is published in the county.

(b) The notice shall be published once a week for two consecutive weeks before the time set for awarding the contract, with the first publication being made at least 14 days before the day for awarding the contract. (42nd Legis., 3rd C.S., Ch. 27, Sec. 66, sen. 2 (part).)

§ 63.170. Application of Certain Sections

The provisions of Sections 63.168–63.169 of this code do not apply to:

- (1) improvements carried out and performed by the United States;

- (2) calamities or emergencies which make it necessary to act at once to preserve the property of the district;
- (3) unforeseen damage to district property, machinery, or equipment or necessary emergency repairs to them; or
- (4) contracts for personal or professional services or work done by the district and paid for by the day as the work progresses. (42nd Legis., 3rd C.S., Ch. 27, Sec. 66, sen. 4, as amended.)

§ 63.171. Procedure for Bids

(a) Any person desiring to bid on the construction of any work advertised shall, on application to the commission, be furnished at actual cost the survey, plans, and estimates for the work.

(b) Bids for the work shall be in writing, sealed, and delivered to the chairman of the commission, together with a certified check for at least five percent of the total amount of the bid. A bid bond in the amount of at least five percent of the total amount of the bid executed by a corporate surety duly authorized to do business in this state and payable to the district may be substituted in lieu of the certified check.

(c) If the bidder's bid is accepted but he refuses to enter into a proper contract and give the performance and payment bond required by Article 5160, Revised Civil Statutes of Texas, 1925, the certified check or bid bond shall be forfeited to the district.

(d) The commission may reject any and all bids. (42nd Legis., 3rd C.S., Ch. 27, Sec. 67.)

Subsecs. (b), (c) amended by Acts 1971, 62nd Leg., p. 1448, ch. 404, § 1, eff. May 26, 1971.

§ 63.172. Formal Requirements of Contract

(a) A contract entered into by the district shall be in writing and signed by the contractors and the commissioners or any two of the commissioners.

(b) A copy of the contract shall be filed with the county clerk for reference. (42nd Legis., 3rd C.S., Ch. 27, Sec. 68.)

§ 63.173. Contractor's Bond

The contractor shall execute an adequate bond payable to the commission in the amount of the contract price, conditioned that he will faithfully perform the obligations, agreements, and covenants of the contract and that if he defaults he will pay the district all damages sustained by reason of the default. The bond shall be approved by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 69.)

§ 63.174. Interest in Contract

The members of the board and the engineer may not be directly or indirectly interested for themselves or as agents in a contract for the construction of a work to be performed by the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 74.)

§ 63.175. Supervision by Engineer

(a) Unless done under the supervision of the United States, all work contracted for by the commission shall be done under the supervision of the district engineer.

(b) After the work is completed according to the contract, the engineer shall make a detailed report of the work to the commission showing whether or not the contract was fully complied with according to its terms and, if not, in what particulars it has not been complied with. (42nd Legis., 3rd C.S., Ch. 27, Sec. 70.)

§ 63.176. Payment for Work

(a) The commission shall inspect the work being done during its progress, and on completion of the contract, the commission shall draw a warrant on the district depository in favor of the contractor or his assignee for the amount of the contract price. The warrant shall be paid from the construction and maintenance fund.

(b) If the commission considers it advisable, it may contract to pay for the work in partial payments as the work progresses, but the partial payments may not be more in the aggregate than 90 percent of the contract price of the total amount of work done under the contract. The amount of the work shall be shown by a certificate of the engineer.

(c) The provisions of this section do not apply to improvements carried out or performed by the United States. (42nd Legis., 3rd C.S., Ch. 27, Sec. 71.)

Amended by Acts 1971, 62nd Leg., p. 1448, ch. 404, § 2, eff. May 26, 1971.

§ 63.177. Commission Report

(a) The commission shall make an annual report of its activities and file it with the county clerk on or before January 1 of each year.

(b) The report shall show in detail:

(1) the kind, character, and amount of work done in the district;

(2) the cost of the work; and

(3) the amount paid on order, the purpose for which paid, and other data necessary to show the condition of improvements made under the provisions of this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 72.)

§ 63.178. Franchises

(a) A district may grant franchises on property owned or controlled by the district to any person for purposes consistent with this chapter and may charge fees for the franchises.

(b) A franchise may be granted for a period of not more than 30 years.

(c) Before the franchise is granted, the commission must approve the franchise by a majority vote at three separate meetings held at least one week apart and must publish the franchise in full, at the expense of the applicant, once a week for three consecutive weeks in a newspaper published in the district.

(d) The franchise shall require the grantee to file his written acceptance within 30 days from the day the franchise is finally approved.

(e) Fees charged for a franchise may be used to pay interest on bonds or other securities issued by the district for construction of its improvements and to retire these bonds or other securities at maturity.

(f) This section shall not be construed to prevent a district from granting revocable licenses or permits for the use of limited portions of waterfront or facilities for purposes consistent with this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 79.)

§ 63.179. Adjacent Land

(a) The district may own land adjacent or accessible to the navigable water developed by the district and may lease the land to any person and charge reasonable tolls, fees, or other charges.

(b) Proceeds from the tolls, fees, or other charges may be used for maintenance and operation of the business of the district, to make the district self-supporting and financially solvent, and to return the construction cost of the improvements within a reasonable period.

(c) The land may be located in whole or in part inside or outside the boundaries of any incorporated city, town, or village in this state, but

land which is not included inside the boundaries of a city, town, or village at the time it is acquired by the district may not be annexed or included inside the boundaries of the city, town, or village without the written consent of the district evidenced by a resolution adopted by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 78, as amended.)

§ 63.180. Issuance of Writs

A writ of mandamus shall issue from a court of competent jurisdiction to compel the commission to apply revenue in accordance with the terms of a contract with the United States, and an injunction may be issued to restrain the commission from violating the provisions of a contract with the United States. (42nd Legis., 3rd C.S., Ch. 27, Sec. 77 (part).)

§ 63.181. Peace Officers

The district may appoint three peace officers to protect life and property in the district and the property of the district. The officers shall have the same rights, powers, and authority as policemen of a city or town. (42nd Legis., 3rd C.S., Ch. 27, Sec. 81, sen. 1 (part), 2.)

§ 63.182. Effect on Police Powers

The provisions of this chapter shall not affect or repeal the police powers of any municipality inside the district or any law, ordinance, or regulation which authorizes the municipality to exercise police power over any navigable stream, aid to navigation, or facility for navigation in the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 81, sen. 1 (part).)

§ 63.183. Other Laws Governing District

The commission has the same rights, powers, and duties provided for commissioners in Articles 8248-8257, Revised Civil Statutes of Texas, 1925. (42nd Legis., 3rd C.S., Ch. 27, Sec. 82.)

[Sections 63.184 to 63.220 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Section 63.221. Construction and Maintenance Fund

(a) The construction and maintenance fund shall include money received from the sale of bonds and other sources except the tax and other collections deposited in the sinking fund and used to pay interest on the bonds.

(b) All expenses incurred in connection with the creation, establishment, and maintenance of the district after the original petition to create the district is filed shall be paid from the construction and maintenance fund. (42nd Legis., 3rd C.S., Ch. 27, Sec. 50 (part).)

§ 63.222. District Depository

The district depository shall be designated at the time, in the manner, and under the same regulations and laws as county depositories, and the district's funds shall be deposited in the depository. (42nd Legis., 3rd C.S., Ch. 27, Sec. 40.)

§ 63.223. Warrants

District funds shall be handled under orders of the commission on warrants drawn for designated purposes, and no warrant may be paid unless it is signed by at least two members of the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 39.)

§ 63.224. Accounts and Records; Audit

(a) A complete book of all accounts and records shall be kept by the district.

(b) In January of each year or as soon after that time as practicable, the county auditor or, in the discretion of the commission, an independent certified public accountant or firm of independent certified public accountants shall be employed to make a complete audit of the books and records and make a report of the findings.

(c) The audit report shall be made in triplicate, and one copy shall be filed with the district office, one with the district depository, and one with the county auditor's office. (42nd Legis., 3rd C.S., Ch. 27, Sec. 84, as amended; Sec. 85.)

§ 63.225. Deposit

(a) When the petition to create the district is filed, it shall be accompanied by a \$500 deposit, which shall be held by the county clerk until the result of the election to create the district is declared and entered in the minutes of the commissioners court.

(b) If the result of the election favors the creation of the district, the county clerk shall return the \$500 deposit to the signers of the petition or their agent or attorney.

(c) If the result of the election is against the creation of the district, the county clerk shall pay the costs and expenses of the proposed district up to and including the election from the \$500 deposit on vouchers signed by the county judge and shall return the balance of the deposit, if any, to the signers of the petition or their agent or attorney. (42nd Legis., 3rd C.S., Ch. 27, Sec. 50 (part).)

§ 63.226. Debt

(a) The district may retire the original cost of construction of its improvements or pay for the cost of construction by borrowing money and pledging and mortgaging land, wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, lighterage, towing facilities, and other facilities or aids incident or necessary to the operation or development of ports or waterways.

(b) The district may issue its debentures or other evidences of debt secured by a mortgage for the length of time and a rate of interest of not more than eight percent a year. In addition, the district may secure the debentures, notes or other evidences of debt with bonds of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 86.)

§ 63.227. Retiring Debt

Debentures, notes, or other evidences of debt may be retired by rents, tolls, fees, or charges other than taxes. The debt also may be retired by assessments against taxable property in the district which is equitably distributed on the basis of benefits derived by the property from district improvements. (42nd Legis., 3rd C.S., Ch. 27, Sec. 87.)

§ 63.228. Borrowing Money

(a) A district may borrow for any legal purpose from the United States or from any banking institution or other source not more than \$250,000 to meet temporary needs, and may issue notes or other short term obligations other than bonds which will mature in not more than 10 years from their date and may pledge any securities owned by them or their surplus revenues.

(b) A district, in the acquisition of land necessary for the development of its ports and waterways both industrial and otherwise, may execute purchase money notes securing same with liens on the land being

acquired or with a pledge of surplus revenue, or with both. The notes may bear interest at the rate determined by the commission.

Added by Acts 1971, 62nd Leg., p. 1448, ch. 404, § 3, eff. May 26, 1971.

[Sections 63.229 to 63.250 reserved for expansion]

SUBCHAPTER F. BOND PROVISIONS

Section 63.251. Levy of Tax

After bonds have been voted, the commission shall levy a tax on all taxable property in the district sufficient to pay principal of and interest on the bonds and shall annually levy and have assessed and collected on the taxable property of the district an amount sufficient to pay for the expense of assessing and collecting the taxes. (42nd Legis., 3rd C.S., Ch. 27, Sec. 37.)

§ 63.252. Form of Bonds

(a) Bonds issued under the provisions of this chapter shall be issued in the name of the district and shall be signed by the chairman of the commission and attested by the secretary, with the district's seal affixed to each bond.

(b) The bonds shall be issued in the denominations and payable annually or semiannually at the time or times, not more than 40 years from their date, that the commission considers most expedient. (42nd Legis., 3rd C.S., Ch. 27, Sec. 38.)

§ 63.253. Approval of Bonds by Attorney General

(a) Before bonds are offered for sale, the district shall present to the attorney general a certified copy of all the minutes of commission proceedings relating to the issuance of the bonds, including:

(1) a copy of the notices of hearing and election, together with a certified return of each notice;

(2) a certified copy of the commission's order levying a tax to pay principal of and interest on the bonds;

(3) a statement of the total bonded indebtedness of the district, including the series of bonds and the assessed value of property for the purpose of taxation as shown by the last official assessment of the district; and

(4) any other information which the attorney general requires.

(b) The attorney general shall carefully examine the bonds in connection with the constitution, laws relating to the execution of the bonds, and the facts.

(c) If the attorney general finds that the bonds were issued in conformity with the constitution and laws and that they are valid and binding obligations of the district, he shall certify the bonds. (42nd Legis., 3rd C.S., Ch. 27, Sec. 46.)

§ 63.254. Registration of Bonds

After the bonds are examined and certified by the attorney general, they shall be registered by the comptroller in a book kept for that purpose, and the certificate of the attorney general shall be preserved in the record to be used in the event of litigation. (42nd Legis., 3rd C.S., Ch. 27, Sec. 47, sen. 1.)

§ 63.255. Validity of Bonds

(a) After the bonds are certified by the attorney general and registered by the comptroller, they shall be held prima facie valid and binding obligations in every action, suit, or proceeding in which their validity is brought into question.

(b) In any action brought to enforce collection of the bonds or interest on the bonds, the certificate of the attorney general or a certified copy of the certificate shall be received as prima facie evidence of the validity of the bonds and their coupons, and the only defense that can be offered against the validity of the bonds or coupons is forgery or fraud. (42nd Legis., 3rd C.S., Ch. 27, Sec. 47, sen. 2, 3.)

§ 63.256. Sale of Bonds

(a) After the bonds are registered, the chairman of the commission shall offer them for sale and shall sell the bonds on the best terms and for the best price possible.

(b) As the bonds are sold, the money received for them shall be paid to the district depository to the credit of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 49.)

§ 63.257. Bond Record

(a) After bonds are issued, the board shall procure and deliver to the secretary of the district a well-bound book for recording the bonds.

(b) The record kept in the book shall include:

- (1) the bonds and their numbers;
- (2) the amount of the bonds;
- (3) the interest rate;
- (4) the date of issuance;
- (5) the date the bonds become due;
- (6) the place where the bonds are payable;
- (7) the amount received for each bond; and
- (8) the tax levy to pay interest and provide a sinking fund.

(c) The bond record shall be available for public inspection by all interested parties in the district.

(d) On payment of a bond, an entry of the payment shall be made in the bond record. (42nd Legis., 3rd C.S., Ch. 27, Sec. 48.)

[Sections 63.258 to 63.280 reserved for expansion]

SUBCHAPTER G. TAX PROVISIONS**Section 63.281. Bond Tax**

(a) After bonds have been voted, the commission shall levy and have assessed and collected improvement taxes on all taxable property inside the district.

(b) The tax shall be in an amount which is sufficient to pay the principal of and interest on the bonds. (42nd Legis., 3rd C.S., Ch. 27, Sec. 51 (part).)

§ 63.282. Maintenance and Operation Tax

(a) With the approval of the electors of the district, the commission may levy and have assessed and collected for the maintenance, operation, and upkeep of the district and its improvements an annual tax of not more than 20 cents on the \$100 valuation on all taxable property in the district.

(b) The proposition to approve the tax provided in Subsection (a) of this section may be voted on at the election to create the district or may be voted on at a separate election to be held in the manner provided for elections held under Subchapter B of this chapter.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "The levy of a tax of not more than 20 cents on the \$100 valuation for maintenance, operation, and upkeep of the district and its improvements." (42nd Legis., 3rd C.S., Ch. 27, Sec. 51 (part).)

Amended by Acts 1971, 62nd Leg., p. 1770, ch. 518, § 14, eff. May 31, 1971.

§ 63.283. Funds from Sources Other Than Taxes

The district may pay interest on and principal of the bonds and pay the costs of maintenance, operation, and upkeep with revenue from tolls, rents, fees, or charges other than taxation or with assessments made on the property in the district on the basis of benefit derived. (42nd Legis., 3rd C.S., Ch. 27, Sec. 51 (part).)

§ 63.284. Laws Governing Taxes

Except as provided in this chapter, the laws relating to levy, assessment, and collection of state and county taxes shall apply to levy, assessment, and collection of district taxes and to all officers involved in the levy, assessment, and collection of district taxes. (42nd Legis., 3rd C.S., Ch. 27, Sec. 32, sen. 1 (part).)

§ 63.285. Assessor and Collector Governed by State and County Tax Law

The assessor and collector shall assess and collect taxes on all taxable property in the district, and the property shall be governed by the law relating to state and county taxes. (42nd Legis., 3rd C.S., Ch. 27, Sec. 29, 33 (part).)

§ 63.286. Rendition of Property

(a) The assessor and collector shall compile a record of all taxpayers and all taxable property in the district, and the post-office address of the owners of the property.

(b) On or before April 1 of each year, the assessor and collector shall furnish each taxpayer and owner of property in the district a blank form on which to render his property for taxation. The form may be delivered personally or may be delivered by mail addressed to the owner at his last known address.

(c) On or before April 30 of each year, the owner of property subject to taxation shall file in the office of the assessor and collector a complete statement made under oath of the property owned by him and the true value of the property. The oath of the taxpayer shall be the same oath required for rendition of property for state and county taxes.

(d) The rendition statement may be filed by an authorized agent of the property owner if the agent states in the rendition statement that he is acting as an agent. (42nd Legis., 3rd C.S., Ch. 27, Sec. 30, sen. 1, 2, 3, 4, 5, 6.)

§ 63.287. Property Which Is not Rendered for Taxes

(a) Any property which is not rendered for taxes by the owner or his authorized agent shall be placed on the tax rolls of the district as unrendered in the name of "Unknown Owner."

(b) The assessor and collector shall estimate the value of the unrendered property and place the estimated valuation on the tax rolls. (42nd Legis., 3rd C.S., Ch. 27, Sec. 30, sen. 7.)

§ 63.288. Board of Equalization

(a) Not later than the first regular meeting each year, the commission shall appoint three persons who are electors of the district to be commissioners on the board of equalization and shall designate the time for the meeting of the board of equalization.

(b) The board of equalization shall meet at the time fixed by the commission to receive the assessment lists or books of the district for examination, correction and equalization, appraisalment, and approval.

(c) The secretary of the commission shall act as secretary for the board of equalization and shall keep a permanent record of the proceedings of the board of equalization. (42nd Legis., 3rd C.S., Ch. 27, Sec. 30, sen. 8.)

§ 63.289. Oath of Members of Board of Equalization

(a) Before beginning to perform the duties of the board of equalization, each member 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 appraisalment of all property contained in the district as shown by the assessment lists or books of the assessor and collector and add all property not included of which I have knowledge."

(b) The oath shall be entered in the minutes by the secretary. (42nd Legis., 3rd C.S., Ch. 27, Sec. 31, sen. 1.)

§ 63.290. Meetings of Board of Equalization

The board of equalization shall convene not later than the first Monday in June of each year and shall complete its work by September 1 or as soon after that time as possible. (42nd Legis., 3rd C.S., Ch. 27, Sec. 31, sen. 2.)

§ 63.291. Lien

(a) The district shall have a lien on all property against which taxes are levied and assessed and may enforce the lien in the same manner as liens securing state and county taxes.

(b) Limitation does not run against the district to bar the collection of delinquent taxes or other public charges of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 32, sen. 1 (part), 2 (part).)

§ 63.292. Duty of the Assessor and Collector

The assessor and collector shall be charged with the assessment rolls of the district and is required to collect all taxes levied and assessed against property in the district and shall pay the proceeds to the district depository. (42nd Legis., 3rd C.S., Ch. 27, Sec. 33 (part).)

§ 63.293. Delinquent Taxes

During September of each year, the assessor and collector shall make a certified list of all delinquent property on which taxes are owed and have not been paid and shall return this list to the commission, which shall have the taxes collected by sale of the delinquent property in the manner provided by law for sale of property for collection of state and county taxes. (42nd Legis., 3rd C.S., Ch. 27, Sec. 34 (part).)

§ 63.294. Attorney to Collect Delinquent Taxes

(a) On or before October 1 of each year, the commission shall employ an attorney to collect delinquent taxes or public charges and to file suits to collect delinquent taxes, if necessary.

(b) The attorney is entitled to a fee of 10 percent of the amount of the delinquent taxes or other delinquent charges collected by him or through his efforts or paid to the district after suit is filed. The fees shall be charged as costs of court, and if a judgment is entered, the district shall have judgment for the attorney's fees together with the tax or public charge and other costs. (42nd Legis., 3rd C.S., Ch. 27, Sec. 34 (part), 35, sen. 1 (part).)

§ 63.295. Suit to Collect Delinquent Taxes

Suits to collect delinquent taxes shall be filed and tried as other civil cases, and except as provided in this chapter, the laws governing tax suits for the recovery of state and county taxes shall apply. (42nd Legis., 3rd C.S., Ch. 27, Sec. 35, sen. 1 (part), 2.)

§ 63.296. District Purchase of Delinquent Property

At the sale of property for delinquent taxes, the commission may purchase the property for the benefit of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 34 (part).)

§ 63.297. Authority of County Officers

Nothing in this chapter shall be construed to give any county officer authority over the levy, assessment, and collection of district taxes. These duties shall remain wholly in the control of the district officers. (42nd Legis., 3rd C.S., Ch. 27, Sec. 32, sen. 2 (part).)

[Sections 63.298 to 63.320 reserved for expansion]

SUBCHAPTER H. ASSESSMENTS

Section 63.321. Assessments to Retire Debt

Assessments which are equitably distributed against property in the district may be used to pay the cost of making improvements and to pay principal of and interest on bonds, notes, debentures, or other evidences of debt issued by the district for improvements. (42nd Legis., 3rd C.S., Ch. 27, Sec. 52.)

§ 63.322. Order to Retire Debt by Assessments

If the commission decides to retire bonds and other evidences of debt by equitably distributed assessments against the property in the district, it shall enter an order with its findings in the minutes of its proceedings. (42nd Legis., 3rd C.S., Ch. 27, Sec. 53, sen. 1 (part).)

§ 63.323. Notice of the Order and Hearing

(a) The commission shall publish notice once a week for three consecutive weeks in a newspaper in the district or, if no newspaper is published in the district, in the newspaper published nearest to the district.

(b) The notice shall include a copy of the order and shall set a date for a hearing at which all property owners and persons interested in the district and the improvements may appear and contest the assessments and offer evidence for or against the assessments before the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 53, sen. 1 (part).)

§ 63.324. Hearing Procedure

(a) All protests, contests, and objections at the hearing shall be presented in writing.

(b) The commission shall summon witnesses when requested to do so and take testimony with reference to the protests, contests, and objections.

(c) The hearing may be adjourned from day to day until all proponents or contestants of the assessments have had full opportunity to present evidence. (42nd Legis., 3rd C.S., Ch. 27, Sec. 53, sen. 2, 3.)

§ 63.325. Findings

The commission shall enter its findings after the hearing, and if it finds against the proposition of assessments, no further action shall be taken in the matter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.326. Tax Roll

(a) If the commission finds in favor of levying assessments, it shall direct the assessor and collector of the district to prepare a roll of all the taxable property in the district in the same manner as assessment for ad valorem taxes.

(b) The assessor and collector shall make an assessment in the proportion of cost to be borne by each item of property on the tax rolls, basing the proportion of cost on benefits to be derived from the improvements by the property and the owner of the property. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.327. Board of Equalization

The completed tax roll shall be submitted to the board of equalization, which shall sit and act in all respects as when sitting as a board of equalization for the equalization of the bond taxes. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.328. Notice of Hearing by Board of Equalization

Notice of the hearing by the board of equalization shall be published once a week for three consecutive weeks in a newspaper published in the district or, if no newspaper is published in the district, in the newspaper published nearest to the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.329. Hearing by Board of Equalization

The owners of property shall have the same opportunity to present evidence as in hearings before the board of equalization for equalizing bond taxes. 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. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.330. Findings of Board of Equalization

After all hearings are completed, the board of equalization shall report its findings to the commission for acceptance or disapproval. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.331. Disapproval of Findings

If the commission refuses to approve the tax rolls, it shall hold hearings on all items not approved in the manner provided for the board of equalization. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.332. Effect of Approval of Findings

The approval of the findings of the board of equalization and the tax rolls as finally fixed shall be conclusive except in cases of fraud or the failure to equitably distribute the assessments. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.333. Personal Obligation; Lien

An assessment is a personal obligation of the property owner against whom the assessment is made, and the district has a lien against the assessed taxable property. (42nd Legis., 3rd C.S., Ch. 27, Sec. 55.)

§ 63.334. Assessment Fund

(a) The assessments shall be paid to the assessor and collector and shall be kept by him in a separate fund known as the "Assessment Fund."

(b) Payments out of the fund shall be made to retire the bonds, notes, debentures, or other evidences of debt of the district on vouchers drawn by the commission each year on the maturity of the indebtedness.

(c) The vouchers shall be signed by at least two members of the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 56.)

§ 63.335. Errors in Assessments

(a) An error, mistake, or formality in the assessment or in any step or proceeding prerequisite to the assessment shall not invalidate the assessment, but the commission may correct the error at all times.

(b) An error or mistake in describing any parcel or item of property or the name of any owner of property shall not invalidate the assessment, but it shall have full force and effect against the premises and the real and true owner. (42nd Legis., 3rd C.S., Ch. 27, Sec. 58, sen. 1, 2.)

§ 63.336. Reassessment

(a) If, in the opinion of the commission, an error, mistake, or invalidity exists in any proceeding with reference to the improvements or assessments, it shall correct the error, mistake, or invalidity and reassess the property and the owners of the property.

(b) The reassessment shall be made after the same notice and hearing as provided for the making of an original assessment. The commission in making the reassessment shall take into consideration any enhancement or depreciation in the value of the property assessed and shall make the reassessment on a basis of equalization and the equitable distribution of benefits to the property with respect to all other property in the district.

(c) A reassessment shall not be made later than three years from the date of the original assessment except in the case of fraud or undisclosed ownership of property. (42nd Legis., 3rd C.S., Ch. 27, Sec. 58, sen. 3, 4, 5.)

§ 63.337. Suit to Set Aside or Correct Assessment

(a) A property owner with an assessment or reassessment against him or his property may bring suit within 20 days after the assessment or reassessment in any court with jurisdiction to set aside or correct the assessment or reassessment or any proceeding with reference to the assessment or reassessment due to any error or invalidity.

(b) The cost of a suit to set aside or correct an assessment or reassessment shall be paid by the loser of the litigation.

(c) After the 20-day period following the assessment or reassessment, the owner or his heirs, assigns, or successors do not have a right of action or a defense of invalidity of the assessment or reassessment in any action in which the assessment or reassessment is in question, except in case of fraud. (42nd Legis., 3rd C.S., Ch. 27, Sec. 61.)

§ 63.338. Delinquent Assessments

(a) Not later than August 1 of each year, the assessor and collector shall prepare a delinquent roll showing all delinquencies in the payment of the assessments.

(b) The assessor and collector shall post the delinquent roll in the district office for at least 20 days. (42nd Legis., 3rd C.S., Ch. 27, Sec. 57 (part).)

§ 63.339. Suit for Collection

(a) After the delinquent roll has been posted in the district office for 20 days, the attorney for the district may file suit for collection in any court with jurisdiction.

(b) An attorney's or collection fee of 10 percent on the amount of principal and interest due at the time of filing the suit shall accrue against the property owner and shall be charged as costs of court. The attorney's or collection fee is collectible against the property owner and the property from the date of the filing of the suit.

(c) The suit shall be filed and prosecuted as tax suits for the collection of state and county taxes, except that the attorney for the district shall file and prosecute the suit instead of the county attorney or other public official.

(d) It is not necessary in the suit to specifically plead and prove the orders, notices, rules, and regulations of the commission relating to the assessment or reassessment. It is sufficient for the petition or other pleading to allege that the proceedings with reference to the making of the improvements and the assessments or reassessments were held in compliance with the law and that all prerequisites to the fixing of the assessment lien on the assessed property and the personal liability of the owner were performed. (42nd Legis., 3rd C.S., Ch. 27, Sec. 57 (part), 60.)

§ 63.340 Sale of Property to Satisfy Judgment

The district may purchase any property at a sale to satisfy a judgment in favor of the district on a delinquent assessment or reassessment, if the district is the best bidder. (42nd Legis., 3rd C.S., Ch. 27, Sec. 62.)

§ 63.341. Rules and Regulations

The commission may adopt any necessary rules, regulations, and orders, which are not inconsistent with the provisions of this chapter, for the purpose of carrying out the provisions of the chapter relating to assessments, reassessments, and the collection of assessments. (42nd Legis., 3rd C.S., Ch. 27, Sec. 59.)

DISPOSITION TABLE

Showing where provisions of former articles of Vernon's Annotated Civil Statutes and Penal Code are covered in the Texas Water Code.

Civil Statutes

Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
5421h-1	—	7466f § 4	42.009
5421h-2	—	§ 5	None
6003c	50.022	§ 6	None
6029b § 1	24.001	7466g § 1	45.001
§ 2	24.002	§ 2	45.002
§ 3(a)	24.011		45.003
§ 3(b)	24.013		45.005
§ 3(c)	24.015	§ 3	45.007
§ 3(d)	24.016	§ 4	45.006
	24.017	§ 5	45.004
§ 4(a)	24.012	7466h § 1	43.001
§ 4(b)	24.014		43.002
§ 4(c)	24.031	§ 2	43.003
	24.032		43.004
	24.033		43.005
§ 4(d)	24.018	§ 3	None
§ 5(a)	24.019	§ 4	None
§ 5(b)	24.020	7466i § 1	44.001
§ 5(c)	24.021		44.002
§ 6	24.041	§ 2	44.003
§ 7	24.043		44.004
§ 8	24.044		44.005
§ 9	24.045		44.006
§ 10	24.042		44.007
§ 11	24.046		44.008
7466	1.003	§ 3	44.009
7466a	None	§ 4	None
7466b	None	§ 5	None
7466c	None	7467 § (a)	5.021
7466d	None		5.022
7466e	None	§ (b)	5.021
7466e-1 § 1	41.001	7467c § (1)	5.136
	41.002	§ (2)	5.137
§ 2	41.003	7467d	5.1371
	41.004	7468	5.023(a)
	41.005		5.023(b)
	41.006		5.023(f)
	41.007	7469	5.001(a)
	41.008	7470	5.023(a)
§ 3	None		5.023(c)
7466f § 1	42.001		5.023(d)
	42.002		5.023(e)
§ 2	42.003	7470b	5.001
	42.004	7471	5.024
	42.005	7472	5.027
	42.006		5.028
	42.007	7472a	5.028
	42.008	7472b	5.033

DISPOSITION TABLE

Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7472c	6.053	7500a	5.140
	5.122		5.141
7472d	6.054	7501	5.127
	11.062	7502	5.126
7472d-1	11.068	7503	5.130
	11.072	7504	5.128
7472e	6.073	7505	5.129
7473	5.002(5)	7506	5.133(b)
	5.026	7507	5.133(b)
7474	5.144	7508	5.131(a)
7476	5.002(3)		5.131(b)
7477 § 1	None		5.131(c)
§ 2	5.002(1)	7509	5.131(d)
	5.002(2)		5.131(e)
§ 3	6.011		5.131(f)
	6.012	7510	5.132
	6.013		5.133(a)
	6.014	7511	—
	6.015	7513	5.004
	6.016	7514	6.064
	6.017	7515	5.134
	6.018	7515a	5.001(a)
§ 4	6.055		5.001(a)
	6.023		(Note)
§ 5	6.024	7516	5.135(a)
§ 6	6.020	7517	5.135(b)
	6.022	7518	5.135(c)
§ 7	None	7519	5.143(a)
§ 8(a)	5.138		5.144
	6.057	7519a § 1	5.173
§ 8(b)	None		5.174
§ 8(c)	6.067		5.175
§ 9	None		5.176
§ 10	6.021		5.177
§ 11	6.066	§ 2	5.178
§ 12(a)	6.101		5.179
	6.102		5.180
	6.103		5.181
	6.104		5.182
§ 12(b)	6.105		5.183
§ 13	6.072		5.184
7477a	5.001		5.185
7477b	None		5.186
7477c § 1	50.251	§ 3	5.171(1)
§ 2	50.252	7519b	5.171(2)
§ 3	50.253	7520	5.081
§ 4	50.254	7521	5.082(a)
§ 5	50.255	7522	5.082(b)
§ 6	50.256(a)	7523	5.139
§ 6A	50.256(b)	7524	11.062
7477d	6.074	7525	6.052
7489	6.019	7526	6.024
7492	5.121	7527	11.062
7493	5.123	7528	11.062
7494	5.124	7529	6.063
7495	5.142	7530	6.101
7500	5.125	7531 § 1	6.055
			6.026
		§ 2	6.061

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7532 § 1	6.068	7543	5.025
§ 2	6.071	7544	5.030
§ 3	6.069	7547	5.036
7533 § 1	6.070(a)	7547a § 3	50.276
	6.025		50.277
§ 2	6.070(b)	7548	5.042
7535	6.068	7549	5.091(a)
7536	5.143(b)		5.091(b)
7537	5.143(b)		5.091(c)
7537a	11.065	7550	5.091(d)
7537b	11.066	7550a	5.087
7538	1.011(b)	7551	5.050
7539	1.012(b)	7554	5.084
7540	1.011(a)	7555	5.038(a)
7541	1.012(a)	7556	5.038(b)
7542	5.002(4)	7557	5.039
	5.025	7558	5.039
7542a § 1	5.301	7559	5.040
§ 2	None	7560	5.041(a)
§ 3	5.302		5.041(b)
§ 4	5.303		5.041(g)
§ 5(a)	5.304	7561	5.041(c)
	5.305		5.041(d)
§ 5(b)	5.306		5.041(e)
	5.307	7562	5.041(f)
§ 5(c)	5.308	7563	6.056
§ 5(d)	5.309	7565	6.060
	5.310	7566	6.058
	5.311		6.059
	5.312	7567	6.101
§ 5(e)	5.313	7568	None
	5.314	7570	5.037
§ 5(f)	5.315	7571	5.043
	5.316	7572	None
§ 5(g)	5.317	7573	None
§ 5(h)	5.318	7574	None
§ 5(i)	5.319	7575	5.083
§ 5(j)	5.320	7576	5.088
§ 5(k)	5.321	7578	5.048
	5.322	7579	5.046
§ 5(l)	5.323	7580	5.049
§ 5(m)	5.324	7581	6.065
§ 6	5.336	7582	5.034
§ 7	5.340	7583	5.035
§ 8(a)	5.325	7585	5.044
§ 8(b)	5.326	7586	5.045
§ 8(c)	5.327	7587	5.052
	5.328	7588	5.005
§ 8(d)	5.329	7589	5.085(a)
§ 8(e)	5.330	7589a	5.086
	5.331	7589b § 1	5.401
	5.332		5.402(a)
	5.333		5.402(b)
§ 8(f)	5.334	§ 2	5.402(c)
§ 8(g)	5.335	§ 3	5.403
§ 9	5.337		5.404(a)
§ 10	5.338		5.404(b)
§ 11	5.339		5.404(c)
§ 12	5.341		

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7589b § 4	5.404(d)	7621b § 2(h)	22.002(8)
	5.405	§ 2(i)	22.002(5)
§ 5	5.409	§ 3(a)	22.011
§ 9	5.406		22.012
§ 10	5.407		22.013
§ 11	5.409		22.014
§ 12	5.408	§ 3(b)	22.016
§ 13	5.402(c)	§ 3(c)	22.017
§ 14	5.403	§ 3(d)	22.018
	5.404(a)		22.019(a)
	5.404(b)	§ 3(e)	22.015
	5.404(c)	§ 4(a)	22.031
§ 15	5.404(d)		22.032
	5.405		22.034(a)
7590	5.085(b)	§ 4(b)	22.033
7591	5.085(c)	§ 5	22.019(a)
	5.085(d)		22.019(b)
7592	5.029		22.034(a)
7593	5.047		22.034(b)
7594	None		22.051
7595	None		22.052(a)
7596	5.051(a)		22.053
7597	5.051(b)		22.054
7598	5.089(a)		22.055
	5.089(b)		22.056
7599	5.089(c)	§ 6	22.052(b)
7600	5.201	§ 7	22.101
7601	5.206		22.102
7602	5.205(a)		22.103
7603	5.205(b)		22.104
7604	5.202	7621d-1 § 1.01	21.001
7605	5.203	§ 1.02	21.002
7606	5.092	§ 1.03	21.003
	5.093(b)	§ 1.04	21.004
7607	5.093(a)	§ 1.05	21.005
7608	5.094	§ 1.06	21.257
7609	6.062	§ 1.07	21.258
7610	5.093(a)		21.265
7611	5.032	§ 1.08	21.259
7612	5.031(a)	§ 1.09	21.260
7612a	5.031(b)	§ 1.10	21.261
7612b	5.001(a)		21.265
7613	5.095	§ 1.11	21.263
7614	5.204	§ 1.12	21.264
7615	5.207	§ 1.13	21.006
7616	None	§ 2.01	21.021
7617	None	§ 2.02	21.022
7618	5.003	§ 2.03	21.023
7619	5.001(b)	§ 2.04(a)	21.024
7620	5.001(a)	§ 2.04(b)	None
7621	—	§ 2.04(c)	21.025
7621b § 1	22.001	§ 2.05	21.026
§ 2(a)	22.002(1)	§ 2.06	21.027
§ 2(b)	22.002(2)	§ 2.07	21.028
§ 2(c)	None	§ 2.08	21.029
§ 2(d)	22.002(3)	§ 2.09	21.030
§ 2(e)	22.002(4)	§ 2.10(a)	21.031
§ 2(f)	22.002(6)	§ 2.10(b)	21.031
§ 2(g)	22.002(7)	§ 2.10(c)	21.032

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7621d-1 § 2.11	21.033	7621d-1 § 4.04(c)	21.255(c)
§ 2.12	21.034	§ 4.04(d)	21.255(d)
§ 2.13	21.035	§ 4.04(e)	21.256(a)
§ 2.14	21.038	§ 4.04(f)	21.256(b)
§ 2.15	21.036	§ 4.05	21.262
	21.037	§ 5.01	21.351
§ 2.16	21.039	§ 5.02	21.352
§ 2.17	21.040	§ 5.03	21.353
§ 3.01	21.061	§ 5.04	21.354
§ 3.02	21.062	§ 5.05	21.355
§ 3.03	21.063	§ 5.06	21.356
§ 3.04	21.064	§ 5.07	21.357
§ 3.05	21.065	§ 6.01	21.451
§ 3.06	21.066	§ 7.01	21.601
§ 3.07	21.067	§ 7.02	21.602
§ 3.08	21.068	§ 7.03	21.603
§ 3.09	21.069	§ 7.04	21.604
§ 3.10	21.070	§ 7.05	21.605
	21.071	§ 7.06	21.606
§ 3.11	21.072	§ 7.07	21.607
§ 3.12(a)	21.073(a)	§ 7.08	21.608
	21.073(b)	§ 7.09	21.609
	21.073(c)	§ 7.10	21.610
§ 3.12(b)	21.073(d)	§ 7.11	21.611
§ 3.13	21.074	§ 7.12	21.612
§ 3.14	21.075	7621g § 1	25.001
§ 3.15	21.076		25.002
§ 3.16	21.077	§ 2	25.003
§ 3.17	21.078	§ 2a	25.101
§ 3.18	21.079		25.102
§ 3.19	21.080		25.103
§ 3.20	21.081		25.104
§ 3.21	21.082		25.105
§ 3.22(a)	21.083		25.106
§ 3.22(b)	21.084	§ 3	25.021
§ 3.23	21.085		25.022
§ 3.24	21.086		25.023
§ 3.25	21.087		25.024
§ 3.26	21.088		25.025
§ 3.27	21.089	§ 4	25.033
§ 3.28	21.090	§ 4a	25.026
§ 3.29(a)	21.201	§ 5	25.027
§ 3.29(b)	21.202		25.028
§ 3.29(c)	21.203		25.029
§ 3.29(d)	21.204	§ 6	25.030
§ 3.29(e)	21.205	§ 7(a)	25.030(c)
§ 3.30	21.091		25.035
§ 3.31	21.092	§ 7(b)	None
§ 3.32	21.093	§ 8	25.031
§ 3.33	21.094	§ 9	25.032
§ 4.01(a)	21.251(a)	§ 10	25.051
§ 4.01(b)	21.251(b)		25.052
§ 4.01(c)	21.251(c)		25.053
§ 4.01(d)	21.252		25.054
§ 4.02	21.253		25.055
§ 4.03	21.254		25.060
§ 4.04(a)	21.255(a)		25.061
§ 4.04(b)	21.255(b)		

DISPOSITION TABLE

Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7621g § 11	25.064	7634	55.035
	25.066		55.036
§ 12	25.056		55.037
	25.057		55.038
	25.058		55.045
	25.059	7635	55.036
§ 13	25.065		55.046
§ 14	25.062	7636	55.048
	25.063	7637	55.048
§ 15	25.034	7638	55.039
§ 16	25.004(a)	7639	55.109
§ 17	25.004(b)	7640	55.112
	25.005	7641	55.102
7622	55.022	7642	55.116
	55.023		55.117
	55.161	7643	55.118
	55.163		55.119
	55.189(a)		55.120
7622b	55.730	7644	55.110
	55.731	7645	55.049
	55.732	7646	55.716
	55.733	7647	55.717
	55.734		55.718
	55.735	7648	55.719
	55.736		55.720
	55.737	7649	55.725
	55.738		55.726
	55.739		55.727
	55.740		55.728
	55.741	7650	55.729
	55.742	7651	55.747
	55.743	7652	55.101
	55-744		55.115
7622b-1	55.746		55.121
7623	55.024		55.127
	55.025		55.162
	55.026	7652a	55.241
7624	55.026		55.242
7625	55.021		55.243
	55.024		55.244
7625a	55.040		55.245
7625b	55.041		55.246
7625c	55.042		55.247
	55.043		55.248
7625d	55.044		55.249
7625e	55.045		55.250
7626	55.027		55.251
7627	55.028		55.252
7628	55.029		55.253
7629	55.028	7653	55.185
7630	55.030		55.186
7631	55.031		55.187
	55.032	7653a	55.189
	55.033		55.190
	55.034		55.191
7632	55.031	7653b	None
7633	None	7654	55.128
		7655	55.126
			55.127

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7656	55.163	7691	55.494
	55.164		55.495
7656a	55.204	7692	None
7657	55.188	7693	55.496
7658	55.581		55.497
7659	55.583	7694	55.498
7660	55.584		55.499
7661	55.585	7695	55.501
7662	55.586	7696	55.500
7663	55.588	7697	55.530
7664	55.589	7698	55.531
7665	55.590	7699	55.532
7666	55.591	7700	55.502
7667	55.592	7700a	55.534
	55.593	7701	55.533
	55.594	7702	55.052
7668	55.587	7703	55.504
7669	55.596		55.505
	55.597	7704	55.505
7670	55.598	7705	55.506
	55.600		55.507
	55.601		55.508
7671	55.602	7706	55.509
7672	55.582	7707	55.510
7673	55.595	7708	55.511
7674	55.599	7709	55.512
7675	55.603	7710	55.514
7675a	55.604	7711	55.421
7676	55.620		55.422
7677	55.607	7712	55.516
7678	55.608	7713	55.518
7679	55.609	7714	55.422
7680	55.610	7715	None
7681	55.612	7716	None
	55.614	7716a	55.515
	55.615	7716b	—
7682	55.616	7717	55.106
7683	55.617	7718	55.104
	55.619		55.107
7683a	55.611		55.108
	55.618	7718b	55.103
7684	55.605	7719	55.105
	55.606	7720	55.122
7685	55.613	7721	55.113
7686	55.331	7722	55.111
	55.332	7723	55.302
	55.333	7723a	55.199
	55.334		55.200
7687	55.333	7724	None
	55.335	7725	55.801
	55.336		55.802
	55.337		55.803
	55.338		55.804
7688	55.491	7725a	55.805
7689	55.492	7726	None
	55.493	7727	None
	55.499	7728	None
7690	55.492		
	55.502		

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7729	None	7763	55.179
7730	55.046		55.180
7731	None		55.181
7737a	55.745		55.182
7737b	55.749		55.183
7738	55.168		55.184
7739	55.169	7764	55.050
	55.170		55.051
7740	55.171	7765	55.101
	55.172		55.163
7741	55.173		55.192
	55.174	7766	55.748
7742	55.175	7767	55.194
7743	55.173	7768	55.367
7744	55.176	7769	55.517
7745	55.167	7770	55.519
7746	55.166	7771	55.513
7747	55.201	7772	55.114
7748	55.176		55.121
	55.177		55.122
	55.178	7773	55.520
7749	55.202		55.521
7750	55.195		55.522
7751	55.351		55.523
7752	55.352		55.524
	55.354	7774	None
	55.356	7775	None
	55.358	7775a	55.047
	55.359	7775b	55.722
	55.360		55.723
	55.361		55.724
	55.362	7775c-1	51.702
	55.363		51.703
	55.364		51.704
	55.368		51.705
	55.371		51.706
7753	55.355		51.707
	55.365		51.708
	55.366		51.709
7754	55.165		51.710
7755	55.357		51.711
7756	55.427		51.712
	55.428		51.713
7757	55.424	7776	55.353
	55.425		55.369
7758	55.426	7777	55.370
7759	55.124	7778	55.750
	55.125		55.751
7760	55.123		55.752
7761	55.125		55.753
	55.423		55.754
	55.427	7779	—
	55.429		55.670
7761a	55.429		55.671
	55.430		55.672
7762	None		55.673
			55.674
			55.675

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7779	55.676	7807a	55.301
	55.677		55.303
7780	55.124		55.304
7781	55.656	7807e	55.451
7782	55.657		55.452
7783	55.659		55.453
	55.660		55.454
7784	55.658		55.455
	55.661		55.456
	55.662		55.457
	55.663		55.458
7785	55.664	7807m	55.401
7786	55.665		55.402
	55.667		55.403
	55.668		55.404
7787	55.666		55.405
	55.669		55.406
7788	None		55.407
7789	None		55.408
7790	55.196	7880-1	51.011
7791	—	7880-2	51.121(a)
7792	55.197	7880-3	51.046
	55.198		51.047
7795	55.525		51.048
	55.526		51.049
	55.527		51.050
	55.528		51.051
	55.529		51.121(b)
7796	None		51.531
7797	55.203	7880-3a	51.331
7798	55.203		55.332
7799	55.503		55.333
7800	55.193		55.334
7801	55.711		55.335
	55.712		55.336
	55.713		55.337
	55.714		55.338
	55.715		55.339
7802	55.053	7880-3b	None
7803	55.053	7880-3b1	51.148
7804	55.053	7880-3c subsec. A	52.001
7805	55.053		52.024
7806	55.053	subsec. B	52.021
7807	55.651		52.022
	55.652		52.051
	55.653	subsec. B(1)	52.101
	55.654	subsec. B(2)	52.101
	55.655	subsec. B(3)	52.114
7807a	55.291		52.115
	55.292		52.116
	55.293		52.118
	55.294	subsec. B(4)	52.117
	55.295		52.118
	55.296	subsec. B(5)	52.112
	55.297		52.113
	55.298	subsec. B(6)	52.104
	55.299		52.105
	55.300	subsec. B(7)	52.107

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7880-3c § subsec. B(8)	52.108	7880-20	51.026
	52.109	7880-21	51.027
	52.110		51.028
	52.111		51.029
subsec. B(9)	52.102		51.030
	52.103		51.031
subsec. B(10)	52.120	7880-22	51.032
subsec. B(11)	52.119	7880-23	51.033
subsec. C	52.023		51.077
	52.024	7880-24	51.034
subsec. D	52.002	7880-25	51.074
	52.003	7880-25a	51.101
	52.004	7880-26	None
	52.106	7880-27	51.221
	52.118	7880-28	51.222
subsec. E	52.026	7880-29	51.223
	52.052		51.224
	52.202	7880-30	None
subsec. F	52.301	7880-31	51.124
	52.302		51.404
	52.303		51.405
	52.304		51.406
subsec. G	52.201	7880-32	51.405
subsec. H	52.401		51.406
subsec. I	52.001		51.407
	52.024		51.435
	52.025	7880-32a	51.371
7880-4	51.012		51.372
7880-4a	51.184		51.373
7880-5	51.401		51.374
	51.436 (Note)		51.375
7880-6	51.402	7880-33	51.597
	51.436 (Note)		51.598
7880-7	51.122		51.599
	51.127		51.600
	51.128		51.601
	51.129	7880-34	51.416
	51.130		51.417
	51.131		51.418
	51.132	7880-35	51.355
	51.135	7880-36	51.071
7880-8	51.414		51.072
7880-9	51.414		51.084
7880-10	51.013		51.091
7880-11	51.014		51.098
7880-12	51.015		51.126
7880-13	51.016	7880-37	51.073
7880-14	51.017	7880-37a	51.076
7880-15	51.018	7880-38	51.082
7880-16	51.019	7880-39	51.078
7880-17	51.020		51.079
7880-18	51.022	7880-40	51.093
	51.023	7880-41	51.081
	51.024	7880-42	51.081
	51.025		51.095
7880-19	51.021	7880-43	51.080
	52.025	7880-44	51.094
7880-19a	51.038		51.096
	51.039	7880-45	51.359

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7880-46	51.083	7880-73	51.591
	51.092		51.592
7880-47	51.093		51.593
7880-48	51.122	7880-74	51.594
	51.125		51.595
7880-49	51.136	7880-74a	51.596
7880-50	51.172		51.596
7880-51	51.098	7880-75	51.714
	51.099		51.715
7880-52	51.091		51.716
	51.138		51.717
7880-53	51.156	7880-75a	51.730
	51.157	7880-75b	51.718
	51.158		51.719
	51.159		51.720
	51.160		51.721
	51.161		51.722
	51.162		51.723
	51.163		51.724
	51.164	7880-75d	51.725
	51.165		51.726
7880-54	51.085		51.727
	51.086		51.728
	51.087		51.729
	51.088	7880-76	51.691
	51.089		51.692
	51.090		51.693
7880-55	51.561		51.694
	51.562		51.695
7880-56	51.563		51.696
7880-57	51.564		51.697
	51.565		51.698
	51.566		51.699
7880-58	51.563		51.700
	51.567		51.701
7880-59	51.569	7880-77	51.186
	51.570		51.186
7880-60	51.568	7880-77a	51.501
7880-61	51.571		51.502
	51.572		51.503
	51.575		51.504
7880-62	51.573		51.505
7880-63	51.576		51.506
7880-64	51.577		51.507
7880-65	51.578		51.508
	51.579		51.509
7880-66	51.574	7880-77b	51.781
	51.580		51.782
	51.581		51.783
	51.582		51.784
	51.583		51.785
7880-67	51.584		51.786
7880-68	51.585		51.787
7880-69	51.586		51.788
7880-70	51.587		51.789
7880-71	51.588		51.790
7880-72	51.589		51.791
	51.590		51.792

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7880-77b1 § 1	51.793	7880-86	51.420
§ 2	51.794	7880-87	51.415
	51.795	7880-88	51.441
	51.796	7880-89	51.442
	51.797	7880-90	51.433
§ 3	51.798	7880-90a	51.450
§ 4	51.799		51.451
§ 5	51.800		51.452
§ 6	51.801		51.453
	51.802		51.454
§ 7	51.803	7880-90b	51.455
	51.804	7880-91	51.434
	51.805		51.437
§ 8	51.806	7880-92	51.438
	51.807	7880-93	51.403
	51.808	7880-94	51.436
	51.809	7880-95	51.423
	51.810		51.429
§ 9	51.811	7880-96	51.423
§ 10	51.812		51.425
	51.813		51.426
	51.814	7880-97	51.424
§ 11	51.815		51.425
	51.816		51.427
	51.817	7880-98	51.428
	51.818	7880-99	51.430
§ 12	51.819	7880-100	51.431
	51.820	7880-101	51.432
§ 13	51.821	7880-102	51.351
	51.822	7880-103	51.352
§ 14	51.823	7880-104	51.353
	51.824	7880-105	51.354
§ 15	51.825		51.436
	51.826	7880-106	51.317
§ 16	51.827		51.318
§ 17	51.828		51.319
7880-78	51.408	7880-107	51.360
	51.410		51.361
	51.411		51.362
7880-79	51.408	7880-108	51.321
	51.409	7880-109	51.301
	51.411		51.302
	51.413		51.303
	51.419		51.304
7880-80	51.412		51.305
7880-81	51.413		51.307
7880-82	51.412		51.309
7880-83	51.411		51.310
	51.412		51.311
7880-84	None		51.312
7880-84a	51.443		51.313
	51.444		51.314
	51.445		51.320
	51.446	7880-110	51.306
	51.447		51.315
	51.448		51.316
	51.449	7880-111	51.308
7880-85	51.439		
	51.440		

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7880-111a	51.173	7880-126 subsec. (j)	51.233
	51.174		51.242
	51.175		51.249
	51.176		51.250
	51.177		51.252
7880-111b	51.178		51.253
	51.179		51.254
	51.180		51.255
	51.181		51.256(a)
7880-111(c)	51.182	subsec. (k)	51.243
7880-112	None		51.256(b)
7880-113	51.356		51.257
	51.357		51.258
7880-114	51.358		51.259
7880-115	51.035	subsec. (l)	51.260
	51.036		51.261
	51.037		51.262
7880-116	None		51.263
7880-117	51.139		51.264
7880-118	51.140		51.265
	51.141		51.266
7880-119	51.142		51.267
	51.143		51.268
	51.145(b)		51.269
7880-120	51.145(a)		51.270
	51.146		51.271
	51.147		51.272
7880-121	51.144		51.273
7880-122	51.134		51.274
7880-123	51.133		51.275
7880-123a	51.183		51.276
7880-124	51.125		51.277(a)
7880-125	51.122		51.277(b)
	51.123		51.278
	51.137		51.279
	51.159		
	51.191	subsec. (m)	51.232
	51.192	subsec. (n)	61.161(b)
	51.193		62.106(e)
	51.194		
	51.231	7880-126a	51.268
7880-125a	None	7880-126b	51.276
7880-126 subsec. (a)	51.233		51.277(a)
subsec. (b)	51.234		51.277(c)
	51.235		51.277(d)
subsec. (c)	51.236		51.277(e)
	51.237		51.277(f)
	51.238	7880-127	51.149
	51.239	7880-128	51.150
	51.240		51.151
	51.241		51.152
subsec. (d)	51.241		51.153
	51.245(a)		51.154
	51.245(b)		51.155
subsec. (e)	51.246	7880-129	51.732
subsec. (f)	51.248		51.733
subsec. (g)	51.247		51.734
subsec. (h)	51.245(c)		51.735
subsec. (i)	51.251		51.736

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7880-130	51.510	7880-138	51.187
	51.511		51.188
	51.512		51.189
	51.513	7880-139	51.421
	51.514		51.422
	51.515	7880-140	—
	51.516	7880-141	51.166
	51.517		51.167
	51.518		51.168
	51.519		51.169
	51.520		51.170
	51.521		51.171
	51.522	7880-142	51.190
	51.523	7880-143	51.040
	51.524		51.041
	51.525		51.042
	51.526		51.043
	51.527	7880-143a	51.044
	51.528	7880-144	None
	51.529	7880-145	51.075
	51.530	7880-147	51.731
7880-131	51.631	7880-147a	None
	51.632	7880-147b	51.097
	51.633	7880-147c	None
	51.634	7880-147c1	51.829
7880-132	51.635		51.836
	51.636	7880-147c2	51.831
	51.637	7880-147c3	51.830
	51.638	7880-147c4	51.832
	51.639	7880-147c5	51.832
	51.640		51.835
	51.641	7880-147c6	51.833
	51.642	7880-147c6a	51.834
	51.643	7880-147p	51.376
	51.644		51.377
	51.645	7880-147q	51.376
	51.646	7880-147r	51.378
	51.647		51.379
	51.648		51.380
7880-133	51.649		51.381
	51.650		51.382
	51.651		51.384
	51.652	7880-147s	51.383
	51.653	7880-147t	—
	51.654	7881	53.012
	51.655		53.061
	51.656		53.101
7880-134	51.657		53.102
7880-135	51.052	7882	53.013
	51.532		53.014
	51.533	7883	53.015
	51.534	7884	53.016
	51.535		53.017
	51.536	7885	53.018
	51.537		53.019
	51.538	7886	53.019
7880-136	51.100	7887	53.020
7880-137	51.099		53.021
	51.185	7888	53.022

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7889	53.023	7930	53.125
7890	53.024	7930-2 § 1	53.231
7891	None	§ 1(a)	53.232
7892	53.025		53.233(b)
	53.028	§ 1(b)	53.233(a)
7893	53.026		53.234
7894	53.027		53.235
7895	53.071		53.236
	53.072	§ 1(c)	53.237
	53.073	§ 1(d)	53.238
	53.074	§ 2	53.239
	53.075		53.240
7896	53.067		53.241
	53.068		53.242
	53.069		53.243
7897	53.062		53.244
	53.086	§ 3	53.245
7898	53.085	7930-3 § 1	53.246
7899	53.144	§ 2	53.247
7899a	6.075		53.248
7900	53.063		53.249
7901	53.064		53.250
7902	53.070		53.251
7903	53.065	§ 3	53.252
7904	53.065	§ 4	53.253
7905	53.066		53.254
7906	53.143	§ 5	53.255
7907	53.148	§ 6	53.256
7908	53.149	§ 7	None
7909	—	§ 8	53.257
	53.105	§ 9	53.258
7910	53.107	§ 10	53.259
7911	53.106		53.260
7912	53.076		53.261
	53.077		53.262
	53.115		53.263
7913	53.084		53.264
7914	53.120		53.265
7915	53.088		53.266
7916	53.087		53.267
7917	53.103	§ 11	53.268
	53.104		53.269
	53.126		53.270
7918	53.114	§ 12	53.273
7919	53.117	§ 13	53.272
7920	53.116	§ 14	53.271
7921	53.118	7930-4	51.045
	53.119		53.116
7922	53.141		53.121
	53.142		53.122
	53.171		53.124
7923	53.108		53.147
7924	53.109		53.151
7925	53.150		53.182
7926	53.110	7930-5 § 1	53.029
7927	53.111		53.030
7928	53.112	§ 2	53.031
7929	53.113		53.032
			53.033

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7930-5 § 2	53.034	7970	11.457
	53.035	7971	—
	53.038	7972	57.011
	53.041		57.091
§ 3	53.037	7973	57.152
	53.039		57.153
§ 4	53.036	7974	57.012
	53.040		57.014
	53.042		57.015
§ 5	53.043	7975	57.015
§ 6	—	7976	57.013
7931	53.172	7977	57.016
7932	53.173	7978	57.017
7933	53.174		57.018
7934	53.145	7979	57.019
7935	53.175		57.020
7936	53.176		57.021
7937	53.177		57.022
7938	53.178		57.023
7939	53.179		57.024
7940	53.181		57.025
7941	53.180	7980	57.092
7941a	53.184		57.121
7941c	53.182		57.171
	53.183		57.201
	53.185	7981	57.098
7942	53.189		57.099
	53.190	7982	57.096
	53.191	7983	57.095
7943	53.191	7984	57.100
7944	53.192		57.101
7945	53.194	7985	57.097
7946	53.195	7986	57.120
7947	53.193	7987	57.051
7948	53.078		57.053
	53.079		57.056
	53.082		57.057
	53.083	7987-1	57.058
7949	53.080		57.059
7950	53.081		57.060
7951	53.196		57.061
7952	53.188		57.062
7953	53.186		57.063
7954	53.187	7988	57.054
7955	53.197		57.055
7956	53.198	7989	57.052
7957	53.146		57.067
7958	53.199	7990	57.067
7959	53.200		57.151
7959a	53.089		57.154
7960	—		57.155
7962	11.451		57.156
7963	11.452	7991	57.261
7964	11.453		57.262
7965	11.454	7992	57.264
7966	11.454	7993	57.263
7967	11.455		57.265
7968	11.455		57.266
7969	11.456	7994	57.267

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
7995	57.269	8023	57.110
	57.270		57.111
7996	57.268		57.112
	57.271		57.113
7997	57.259	8024	57.115
7998	57.252		57.116
	57.253		57.117
	57.254		57.118
	57.255	8025	57.114
	57.256	8026	57.069
	57.257		57.070
	57.258	8027	57.093
7999	57.177	8029	57.321
8000	57.202		57.322
8001	57.203		57.323
	57.205	8029a	57.324
8002	57.206		57.326
8003	57.204	8029b	57.325
8004	None		57.326
	57.205	8029c	—
8005	57.207		57.328
8006	57.276		57.329
8007	57.208	8029d	—
8007a	None		57.330
8008	57.212	8029e	57.343
8009	57.209	8029f	57.344
	57.210	8029g	57.331
8010	57.210		57.332
8011	57.211		57.335
8012	57.215	8029h	57.335
	57.251	8029i	57.339
	57.260		57.340
8013	57.276	8029j	57.337
	57.277		57.340
	57.278	8029k	57.339
8014	57.272		57.341
8015	57.174		57.342
	57.175	8029l	57.340
	57.176	8029m	57.338
8016	57.279		57.341
8017	57.280	8029n	57.336
	57.281	8029o	57.333
	57.282		57.345
	57.283	8029p	57.346
	57.284	8029q	57.334
8018	57.213	8030	57.216
8018a	57.213	8031	57.273
8019	57.064	8032	57.274
	57.065	8033	57.275
	57.066	8034	57.094
8020	57.173	8035	57.103
8021	57.172	8036	57.119
8022	57.068	8037	57.026
8023	57.104	8038	None
	57.105	8039	None
	57.106	8040	None
	57.108	8041	None
	57.109	8042	None

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Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section	Vernon's Ann. Civ.St.Article	V.T.C.A. Water Code Section
8097	56.011	8142	56.244
	56.013	8143	56.073
	56.201		56.074
8098	56.014		56.075
8099	56.015	8144	56.246
8100	56.016	8145	56.077
	56.017	8146	56.181
8101	56.018	8147	56.070
8102	56.082		56.071
8103	56.019	8148	56.072
8104	56.020	8149	56.184
8105	56.021	8150	56.182
8106	56.022		56.183
8107	56.022	8151	56.119
8108	56.023	8152	56.118
8109	56.024	8153	56.140
8110	56.025	8154	56.111
	56.026	8155	56.117
8111	56.027		56.129
	56.029	8156	56.129
8112	56.028	8157	56.132
8113	56.029	8158	56.130
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ABBREVIATIONS

Bus Corp	Business Corporation Act.
CCP	Code of Criminal Procedure.
Elec Code	Election Code.
Ins Code	Insurance Code.
PC	Penal Code.
Prob Code	Probate Code.
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